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- HOUSE OF ASSEMBLY**  
**OGUN STATE OF NIGERIA**  
**THE SEVENTH LEGISLATURE (2011-2015)**  
**ENROLLED HOUSE BILL NO. 43/OG/2013**  
**SPONSOR: HON. BANKOLE, OLUSOLA A.**  
**CO-SPONSORS: HON. OBAFEMI, JOHN**  
**HON. ADELEYE-OLADAPO, TUNRAYO A. (MRS)**  
**HON. SOLAJA, O. BOWALE**  
**HON. FASANYA, VICTOR OLUDOTUN (BARR.)**  
**HON. AKINTAN, JOB OLUFEMI**
- 2014



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- OGUN STATE OF NIGERIA**  
**SENATOR IBIKUNLE AMOSUN, FCA**  
 Governor of Ogun State  
**A BILL FOR A LAW TO**  
**ESTABLISH THE STATE COUNCIL ON PUBLIC**  
**PROCUREMENT AND THE BUREAU OF PUBLIC**  
**PROCUREMENT AS THE REGULATORY AUTHORITIES**  
**RESPONSIBLE FOR THE MONITORING AND**  
**OVERSIGHT OF PUBLIC PROCUREMENT, HARMONIZING**  
**THE EXISTING GOVERNMENT POLICIES AND**  
**PRACTICES BY REGULATING, SETTING STANDARDS**  
**AND DEVELOPING THE LEGAL FRAMEWORK AND**  
**PROFESSIONAL CAPACITY FOR PUBLIC PROCUREMENT**  
**IN OGUN STATE AND FOR RELATED MATTERS**
- ( )
- BE IT ENACTED by the House of Assembly of Ogun State, Nigeria as follows:
1. This Law may be cited as the Public Procurement Law, 2014.
  2. In this Law, unless the context otherwise requires.
    - “Accounting Officer” means the person charged with conduct of all procurement processes;
    - “Approving Authority” means the person charged with overall responsibility for the functioning of a Ministry, Extra-Ministerial Department, Corporation, or Parastatal;
    - “Assets” include tangible and intangible things which have been or may be sold or procured for consideration;
    - “Bid Security” means a form of security assuring the bidder shall not withdraw a bid within the period specified for acceptance and shall execute a written contract within the time specified in the bid;
    - “Certificate of No Objection” means the document issued prior to contract award to ensure due process has been followed in the procurement falling within a monetary threshold set by Bureau;
    - “Contract” means an agreement entered in writing;
    - “Contractor or Supplier” means any potential party to a

Date of Commencement

Short Title Interpretation



48. procurement contract with the procuring entity and includes  
49. any service provider, corporation, partnership, individual, sole  
50. proprietor, joint stock company, joint venture or any other  
51. legal entity through which business is conducted;  
52. **"Debar"** the placing of a firm/company or natural person  
53. on a list of persons ineligible to participate in any procurement  
54. proceedings under this Law;  
55. **"Excessive Price"** means a monetary value proposed by  
56. a bidder for any procurement which is in the estimation of  
57. the Bureau unreasonable and injudicious after consideration  
58. of the actual value of the item in question plus all reasonable  
59. imputations of cost and profit.  
60. **"Goods"** means object of every kind and description  
61. including raw materials, products and equipment and objects  
62. in solid, liquid or gaseous form and electricity as well as  
63. services incidental to the supply of the goods;  
64. **"Interim Performance Certificates"** means documents  
65. issued as evidence that a contractor or supplier has performed  
66. its obligations under a procurement contract up to a level  
67. stipulated by the contractor but not meaning completion;  
68. **"International Competitive Bidding"** means the  
69. Solicitations of bids from both domestic and foreign  
70. contractors and suppliers;  
71. **"Margin of Preference"** means the extra mark up on  
72. price allowed any domestic contractor or supplier bidding  
73. under International Competitive Bidding without being  
74. otherwise disadvantageous to the bid in terms of price;  
75. **"Monetary Threshold"** means the value limit in Naira set  
76. by the Bureau outside of which an approving authority may  
77. not award a procurement contract or carry out any other  
78. activity specified;  
79. **"Negotiation"** means discussions to determine the terms  
80. and conditions of a contract or procurement;  
81. **"Open Competitive Bidding"** means the offer of prices  
82. by individual or firms competing for a contract, consultancy  
83. services, privilege or right to supply specified goods, works,  
84. construction or service;  
85. **"Person"** includes any body of persons, corporate or incorporate;  
86. **"Procurement Proceedings"** means any undertaking being  
87. done by a public body engaged in procurement and includes  
88. a Ministry, Extra-Ministerial Office, Government Agency,  
89. Parastatals and Corporation;  
90. **"Procuring Entity"** means any public body engaged in  
91. procurement and includes a Ministry Extra-Ministerial Office,  
92. Government Agency, Parastatals and Corporation;  
93. **"Public Procurement"** means the acquisition of goods,  
94. works and services by a procuring Entity;  
95. **"Relevant Authority"** includes the Economic and Financial  
96. Crimes Commission, the Independent Corrupt Practices  
97. Commission and the State Civil Service Commission;



98. "Restitution" means refund of the money involved or  
 99. forfeiture of any vital property procured with such money;  
 100. "Services" means the rendering by a contractor or supplier  
 101. of his time and effort and includes any object of procurement  
 102. other than goods, works or construction;  
 103. "Solicitation Documents" means the bid solicitation documents  
 104. for solicitation of offers, proposals or quotation any object  
 105. of procurement other than goods, works or construction;  
 106. "State Competitive Bidding" means the solicitation of  
 107. bids from domestic contractors and suppliers registered or  
 108. incorporated to carry on business under Nigerian Law;  
 109. "Substantially Responsive" means the response to bid  
 110. solicitations which give answers to virtually all the needs of  
 111. a procuring entity as stipulated in the bid solicitation documents;  
 112. "Supplier" means a real or legal person that provides  
 113. supply of goods, contracting of works or consultants;  
 114. "Validity Period" means the period during which a bidder  
 115. cannot withdraw the bids or to remove any components of the bid;  
 116. "Works" means all works associated with the construction,  
 117. reconstruction, demolition repair or renovation of a building,  
 118. structure or works, such as site preparation, excavation,  
 119. erection, building, installation of equipment or materials  
 120. decoration and finishing as services incidental to construction  
 121. such as drilling, mapping, satellite photography, seismic  
 122. investigation and similar services provided pursuant to the  
 123. procurement of contract, provided that the value of those  
 124. services does not exceed that of the construction itself.
125. 3. There is hereby established, the Ogun State Council on  
 126. Public Procurement
127. 4. (1) The Council shall consist of:
128. (a) the Commissioner for Budget and Planning who shall  
 129. be the Chairman of Council;
130. (b) the Representatives of the following not below the rank  
 131. of a Director;
132. (i) the Commissioner for Finance;
133. (ii) the Attorney-General and Commissioner for Justice;
134. (iii) the Secretary to the State Government;
135. (iv) the Head of Service;
136. (v) the Economic Adviser to the Governor;
137. (c) Five (5) Part-Time members to represent;
138. (i) Chartered Institute of Purchasing and Supply  
 139. Management of Nigeria.
140. (ii) Nigerian Bar Association in the State;
141. (iii) Ogun State Chamber of Commerce, Industry,  
 142. Mines and Agriculture;
143. (iv) the State Branch of the Nigerian Society of Engineers;
144. (v) representative of Professional Accounting  
 145. Bodies in Nigeria
146. (d) the Director-General of the Bureau who shall double  
 147. as the Secretary of the Council.

Establishment, of the  
 Ogun State Council on  
 Public Procurement  
 Membership of the  
 Council



148. (2) Notwithstanding the provisions of Sub-section (1), the  
 149. Council may Co-opt any person to attend its meeting but  
 150. the person so Co-opted shall not have a casting vote or be  
 151. counted towards quorum.  
 152. For the purpose of this Law, quorum shall be seven (7) Members;  
 153. (3) The Director-General shall hold office on such terms and  
 154. conditions as may be specified in his letter of appointment.  
 155. (4) The Members of the Council excluding Ex-officio Members  
 156. and the Director-General of the Council shall hold office for  
 157. a period of Three (3) Years and may be re-appointed for One  
 158. further term and no more; the professional bodies mentioned  
 159. in section four (4) of this law shall nominate two (2) of their  
 160. members each from which the governor shall appoint one (1)  
 161. each as part time members of the council.  
 159. (5) The Members of the Council shall be appointed by the Governor.  
 161. (6) A Member of the Council shall be removed from Office if he has -  
 162. (a) by reason of infirmity of the mind or body become  
 163. incapable of discharging his duties;  
 164. (b) been convicted of an offence which involves moral turpitude; or  
 165. (c) been involved in any act considered to be inimical to  
 166. the interest of the Council or the State.  
 167. (d) If found guilty of breach of the code of conduct or other  
 168. serious misconduct in relation to his duties;  
 169. (e) in the case of a person possessing professional  
 170. qualification, if he is disqualified or suspended by  
 171. properly constituted authority from practising his  
 172. profession in any part of the World;  
 173. (f) in the case of a person who is a Member by virtue of  
 174. the Office he occupies, if he ceases to hold the Office;  
 175. (g) if he becomes bankrupt or makes compromise with  
 176. his creditors.  
 177. (7) A Member may resign his membership by notice in writing,  
 178. addressed to the Governor and his membership shall cease  
 179. on the date of the acceptance of his resignation by the Governor.  
 180. (8) The members of the Council shall be paid such remunerations  
 181. and allowances as may be approved by the Governor.  
 182. (9) The Council may regulate its proceedings.  
 183. 5. The Council shall:  
 184. (a) consider, approve and amend the monetary  
 185. and prior review threshold for the application of the  
 186. provisions of this Law by procuring entities;  
 187. (b) consider and approve policies on public procurement;  
 188. (c) approve the appointment of the Directors of the Bureau;  
 189. (d) receive and consider, for approval, the audited  
 190. accounts of the Bureau of Public Procurement;  
 191. (e) approve changes in the procurement process to adapt to  
 192. improvements in modern technology and world best practices; and  
 193. (f) give such other directives and perform such other  
 194. functions as may be necessary to achieve this Law.

Functions of the  
 Council



195.		<b>Part II-Establishment of the Bureau of Public Procurement</b>	
196.	6. (1).	There is hereby established a Bureau to be known as the	Establishment
197.		Ogun State Bureau of Public Procurement (hereinafter	
198.		referred to as "the Bureau")	
199.	(2)	The Bureau shall be a body corporate with perpetual	
200.		succession and a common seal, with power to sue and be	
201.		sued in its corporate name and to hold and dispose of	
202.		property, movable or immovable for the purpose of its functions.	
203.	(3)	The Bureau shall serve as the Secretariat for the Council.	
204.	7.	The objectives of the Bureau are -	Objectives of the Bureau
205.	(a)	the harmonization of existing government policies and	
206.		practices on Public Procurement and ensuring probity,	
207.		accountability and transparency in the procurement process;	
208.	(b)	the establishment of pricing standards and benchmarks;	
209.	(c)	ensuring the application of fair, competitive, transparent,	
210.		value-for money standards and practices for the	
211.		procurement and disposal of public assets and	
212.		service; and	
213.	(d)	the attainment of transparency, competitiveness, cost	
214.		effectiveness and professionalism in the Public Sector	
215.		Procurement system.	
216.	8.	The Bureau shall -	Functions of the Bureau
217.	(a)	formulate the general policies and guidelines relating to	
218.		Public Sector Procurement for the approval of the Council;	
219.	(b)	publicize and explain the provisions of this Law;	
220.	(c)	subject to threshold as may be approved by the Council,	
221.		certify State procurement prior to the award of contract;	
222.	(d)	supervise the implementation of established Procurement	
223.		Policies;	
224.	(e)	monitor the price of Procurement Contracts, create	
225.		and maintain a State Database of Standard prices;	
226.		in synergy with the State Department of Statistics.	
227.	(f)	publish the detail of contracts above thresholds in	
228.		the Procurement Journal;	
229.	(g)	publish paper and electronic editions of the Procurement	
230.		Journal and maintain an archival system for the	
231.		Procurement Journal;	
232.	(h)	maintain a State Database of the particulars and	
233.		classification and categorization of Contractors and	
234.		Service Providers by;	
235.	(i)	collating and maintaining in an archival system,	
236.		all State Procurement Plans and Information; and	
237.	(ii)	undertaking Procurement Research and Surveys;	
238.	(i)	organize training and development programmes for	
239.		Procurement Professionals and all the staff of the Bureau;	
240.	(j)	periodically conduct Procurement Surveys and	
241.		Research to determine the socio-economic impact of	
242.		public procurement policies and practices and to	
243.		accordingly advise the Council;	
244.	(k)	prepare and update standard Bidding and Contract	
245.		documents;	



246. (l) prevent fraudulent and unfair Procurement and where  
 247. necessary apply administrative sanctions;  
 248. (m) review the Procurement and award of Contract  
 249. Procedures of every entity to which this Law applies;  
 250. (n) arrange and perform Internal and External Procurement  
 251. Audit and submit such report bi-annually to Ogun State  
 252. House of Assembly  
 253. (o) develop, update and with the approval of the Council,  
 254. introduce related technology for improving Public  
 255. Procurement;  
 256. (p) establish a single internet portal that shall, subject to  
 257. Freedom of Information Act 2011, serve as primary  
 258. and definitive source of all information on Government  
 259. Procurement containing and displaying all Public Sector  
 260. Procurement information at all times; and  
 261. (q) coordinate relevant training programs to build  
 262. institutional capacity.
263. 9. The Bureau shall have power to:
264. (a) enforce the monetary and prior review threshold  
 265. approved by the Council for the application of the  
 266. provisions of this Law, by the Procuring Entities:  
 267. (b) subject to paragraph (a) of this Sub-section, issue  
 268. Certificate of "No Objection" for "Contract Award"  
 269. within the prior review threshold for all procurement  
 270. within the purview of this Law.  
 271. (c) where a reason exists;  
 272. (i) cause to be inspected or reviewed any procurement  
 273. transaction to ensure compliance with the  
 274. provisions of this Law;  
 275. (ii) review and determine whether any procuring  
 276. entity has violated any provisions of this Law; and  
 277. (d) debar any supplier, Contractor or service provider that  
 278. contravenes any provisions of this Law and regulations  
 279. made pursuant to this Law;  
 280. (e) maintain a State Database of contractors and service  
 281. providers and to the exclusion of all procuring entities  
 282. prescribe classifications and categorizations for the  
 283. companies on the Register  
 284. (f) maintain a list of firms and persons that have been  
 285. debarred from Participating in procurement activity and  
 286. publish them in the Procurement Journal;  
 287. (g) call for such information, document, records and  
 288. reports in respect of any Procurement Proceeding  
 289. where a breach, wrongdoing, default, mismanagement  
 290. and or collusion has been alleged, reported or proved  
 291. against a procuring entity or service provider;  
 292. (h) recommend to the Council, where there are persistent  
 293. or serious breaches of this Law or regulations or  
 294. guidelines made under this Law;  
 295. (i) the suspension of Officers concerned with the  
 296. procurement or Disposal proceeding in issue;  
 297. (ii) the replacement of the head or any of the

Powers of the  
 Bureau



297. members of the Procuring or Disposal unit of any  
 298. entity or the Chairman of the Tenders Board as  
 299. the case may be;
300. (iii) the discipline of the Accounting Officer of any  
 301. procuring entity;
302. (iv) the temporary transfer of the procuring and  
 303. disposal function of a procuring and disposing  
 304. entity to a third party procurement agency or  
 305. consultant; or
306. (v) any other sanction that the Bureau may  
 307. consider appropriate.
308. (i) call for the production of books of accounts, plans  
 309. and documents and examine persons or parties in  
 310. connection with any Procurement Proceeding;
311. (j) act upon complaints in accordance with the precedures  
 312. set out in this Law;
313. (k) nullify the whole or any part of any procurement  
 314. proceeding or award which is in contravention of this Law;
315. (l) do such other things as are necessary for the efficient  
 316. performance of its function under this Law;
317. (m) train personnel and build State-wide institutional  
 318. capacities for efficient and effective Public Procurement  
 319. and sustainable development;
320. (n) enter into contract or partnership with any company,  
 321. firm or person which in its opinion will facilitate the  
 322. discharge of its functions;
323. (o) request for and obtain from any Procurement Entity  
 324. information including reports, memoranda and audited  
 325. accounts and other information relevant to its functions  
 326. under this Law; and
327. (p) liaise with relevant bodies or institutions, National and  
 328. International, for effective performance of its functions  
 329. under this Law;
330. 10. (1) There shall be for the Bureau, a Director-General who shall  
 331. be appointed by the Governor on the recommendation of  
 332. the Council after competitive selection.
333. (2) The Director-General shall be:
334. (a) the Chief Executive and Accounting Officer of the Bureau;
335. (b) responsible for the execution of the policies and day to  
 336. day administration of the affairs of the Bureau; and
337. (c) a person who possesses not less than Fifteen (15)  
 338. Years of relevant and adequate professional  
 339. qualification and experience in Procurement and  
 340. Supply Chain Management.
341. (3) The Director-General shall hold Office;
342. (a) for a term of 4 years in the first instance and may be  
 343. re-appointed for a further term of 4 years and no more; and
344. (b) on such terms and conditions as may be specified in  
 345. his letter of appointment.
- (4) Without prejudice to the provisions of this Law, the Director-  
 General may be removed from Office at the instance of the

Director-General  
 and Staff of the  
 Bureau



346.		Governor for reason of gross misconduct, financial impropriety, fraud or manifested incompetence proven by the Council.	
347.			
348.	11. (1)	The Council shall appoint the Principal Officers for the Bureau after competitive selection process;	Principal officers of the Bureau
349.			
350.	(2)	The Principal Officers appointed under Sub-section (1) of this Section shall each have the requisite qualification and experience required for the effective performance of the functions of their respective Departments and the Bureau as specified under this Law;	
351.			
352.			
353.			
354.			
355.	(3)	The Council shall have power to modify the operational structure of the Bureau as may be necessary to enhance the performance of the Bureau's duties and functions under this Law.	
356.			
357.			
358.			
359.	12. (1)	The Council may, appoint such Officers and other employees as may from time to time be deemed necessary.	Other staff of the Bureau
360.			
361.	(2)	The terms and conditions of service (including remuneration, allowances, benefits and pensions) of Officers and employees of the Bureau shall be as determined by the Council.	
362.			
363.			
364.	(3)	Without prejudice to the generality of Sub-section (1), the Council shall have power to appoint either on transfer or on secondment from the Civil Service in the State, such number of employees as may be required to assist the Bureau in the discharge of any of its functions under the Law and persons so employed shall be remunerated (including allowances) as the Council may consider appropriate. Such transfer or appointment shall be on competitive basis.	
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372.	13. (1)	The Council may, subject to the provisions of this law and within twelve (12) months of its inauguration, make staff regulation relating generally to the conditions of service of the employees of the Bureau and without prejudice to the foregoing, such regulations may provide for:	Staff Regulations
373.			
374.			
375.			
376.			
377.		(a) the appointment, promotion and disciplinary control (including dismissal) of employees of the Bureau: and	
378.		(b) appeals by such employees against dismissal or other disciplinary measures.	
379.			
380.			
381.	(2)	Until such regulations are made, any instrument relating to the condition of service of Officers in the Civil Service of the State shall be applicable.	
382.			
383.			
384.	14.	Employees of the Bureau shall be entitled to pensions and other retirement benefits as prescribed under the Pension Reform Law, 2008 (as amended).	Pensions Provisions
385.			
386.			
387.	15. (1)	The Bureau shall establish and maintain a fund, to be approved by the Council, into which shall be paid and credited:	Funds of the Bureau
388.		(a) the sums allocated pursuant to the Appropriation Law for the running of the Bureau;	
389.		(b) all subventions, fees and charges for services rendered or publications made by the Bureau; and	
390.		(c) all other assets which may, from time to time, accrue to the Bureau.	
391.			
392.			
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395. (2) The Bureau shall charge its fund to meet all its expenditure.
396. (3) The Council may make regulations for the Bureau:
397. (a) specifying the manner in which the assets or fund of
398. the Bureau are to be held, regulating the making of
399. payment into and out of the fund; and
400. (b) requiring the keeping of proper accounts and records
401. for the purposes of the fund in such form as may be
402. specified in the rules.
403. (4) The Bureau may, from time to time, apply the proceeds of
404. the fund for:
405. (a) the cost of administration of the Bureau;
406. (b) the payment of salaries, fees, and other remuneration
407. or payment by the Bureau of experts or professionals
408. appointed by the Bureau;
409. (c) the maintenance of any property acquired by or vested
410. in the Bureau;
411. (d) any expenditure connected with all or any of the
412. functions of the Bureau under this Law;
413. (e) any matter connected with or any of the functions of
414. the Bureau under this Law.
415. 16. (1) The Financial Year of the Bureau shall be the same as the
416. budgeting period of the State Government.
417. (2) Not later than 6 months before the end of the Financial
418. Year, the Bureau shall submit to the Council an estimate of
419. its expenditure and projected income during the next
420. succeeding year,
421. (3) The Bureau shall keep proper accounts and records of its
422. receipts, payments, assets and liabilities and shall in
423. respect of each financial year prepare a statement of
424. accounts in such form as the Council may direct.
425. (4) The Bureau shall within 6 months after the end of the financial
426. year to which the accounts relate cause the accounts to
427. be audited in accordance with guidelines supplied by the
428. Auditor-General of the State.
429. (5) The Bureau shall at the end of each financial year, prepare
430. and submit to the Council a report in such form as shall
431. accurately capture all the activities of the Bureau during
432. the preceding year and shall include in the report a copy of
433. the audited accounts of the Bureau for that year, both of
434. which shall be made public and widely disseminated.
435. 17. (1) Subject to the provision of this Law, no suit shall be commenced
436. against the Bureau before the expiration of 30 days after
437. written notice of an intention to commence the suit shall
438. have been served upon the Bureau by the intending claimant
439. or his agent; and the notice shall clearly and explicitly state;
440. (a) the cause of action;
441. (b) the particulars of the claim;
442. (c) the name and address of the legal practitioner of the
443. intending claimant;
444. (d) the relief being sought; and
445. (e) except the subject matter of the complaint is one

Financial Year and  
Annual Report

Legal Proceeding



446. previously laid before the Bureau by the Claimant.  
 447. Provided that on procurement matters, where the complaint  
 448. has satisfied all required procedures for laying complaints,  
 449. notice of intention to commence suit on a subject matter  
 450. already dealt with through the complaint process is not required.  
 451. (2) The Director-General of the Bureau, its Officers, employees  
 452. or agents shall not personally be subject to any action,  
 453. claim or demand by, or liable to any person in respect of  
 454. anything done or omitted to be done in exercise of any  
 455. functions or power conferred by this Law upon the Bureau,  
 456. its Director-General, Officers, employees or agents.  
 457. (3) A member of the Council or the Director-General or any  
 458. Officer or employee of the Bureau shall be indemnified out of the  
 459. assets of the Bureau against any liability incurred by him  
 460. in defending any proceeding, whether civil or criminal, if the  
 461. proceeding is brought against him in his capacity as a member,  
 461. Director-General, Officer or other employee of the Bureau.  
 462. (4) A notice, summons or other documents required or authorized  
 463. to be served upon the Bureau under the provisions of this  
 464. Law or any other Law or enactment may be served by  
 465. delivering to the Director-General or by sending it by registered  
 466. post and address to the Director-General or at the Principal  
 467. Office of the Bureau.

**Part III-Scope of Application**

469. 18. (1) The Provisions of this Law shall apply to all procurement of  
 470. goods, works, non-consulting services and services carried  
 471. out by:  
 472. (a) the State Government and all procuring entities in the  
 473. State created by virtue of Legislative enactment; and  
 474. (b) any public body in the State engaged in procurement,  
 475. and shall include Ministries, Departments, Bureaux,  
 476. Offices, Corporations and Parastatals, and all entities  
 477. outside the foregoing description which derive any  
 478. funds appropriated or proposed to be appropriated for  
 479. any type of procurement described in this Law.  
 480. (2) The Provisions of this Law shall not apply to the procurement  
 481. of goods, works, non-consulting services and services  
 482. involving security matters unless the Governor's express  
 483. approval has been first sought and obtained.

**Part IV-Fundamental Principles of Procurements**

485. 19. (1) Subject to any exemption allowed by this Law, all public  
 486. procurement shall be conducted:  
 487. (a) subject to the prior review thresholds as may from  
 488. time to time be set by the Bureau;  
 489. (b) based only on procurement plans supported by prior  
 490. budgetary appropriation and issuance of a Certificate  
 491. of No Objection to Contract Award from the Bureau;  
 492. (c) by Open Competitive Bidding;  
 493. (d) in a manner which is transparent, timely and equitable  
 494. for ensuring accountability and conformity with this  
 495. Law and regulations deriving therefrom;

Scope of  
Application



496. (e) with the aims of achieving value for money and fitness  
497. for purpose;  
498. (f) in a manner which promotes competition, economy  
499. and efficiency; and  
500. (g) in accordance with the procedures and time lines laid  
501. down in this Law and as may be specified by the  
502. Bureau from time to time.
503. (2) Where the Bureau has set prior review thresholds in the  
504. procurement regulation, no funds shall be disbursed from  
505. the treasury or revenue account or any bank account of  
506. any procuring entity for procurement falling above the  
507. thresholds unless the cheque, payments or other form of  
508. request for payments is accompanied by a "Certificate of  
509. No Objection to an Award of Contract" duly issued by the Bureau.
510. (3) For all cases where the Bureau shall set the prior review  
511. threshold, the Bureau shall prescribe by regulation,  
512. guidelines and the conditions precedent to the award of  
513. "Certificate of No Objection" under this Law.
514. (4) Subject to the prior review thresholds as may be set by the  
515. Bureau, any procurement purported to be awarded without  
516. a Certificate of No Objection to Contract Award duly issued  
517. by the Bureau shall be null and void.
518. (5) A supplier, contractor or service provider may be a natural  
519. person, a legal person or a combination of the two. Suppliers,  
520. contractors or service providers acting together are jointly  
521. and severally liable for all obligations and/or responsibility  
522. arising from this law and the non-performance or improper  
523. performance of contract awarded pursuant to this Law.
524. (6) All bidders, in addition to requirements contained in any  
525. solicitation documents shall;
526. (a) possess the necessary;
527. (i) professional and technical qualifications to carry  
528. out particular procurements;
529. (ii) financial capability; and  
530. (iii) equipment and other relevant infrastructure.
531. (b) shall have adequate personnel to perform the obligations  
532. of the Procurement contracts;
533. (c) possess the legal capacity to enter into the  
534. Procurement contract;
535. (d) not be in receivership, or be the subject of any form of  
536. winding up petition or proceedings;
537. (e) have fulfilled all its obligation to pay taxes, pensions  
538. and social security contributions arising from  
539. operations in Nigeria;
540. (f) not have any Director who has been convicted in any  
541. country for any criminal offence relating to fraud or  
542. financial impropriety or criminal misrepresentation or  
543. falsification of facts relating to any matter; and  
544. (g) accompany every bid with an affidavit disclosing  
545. whether or not, any Officer of the relevant Committees



546. of the procurement entity or Bureau is a former or  
547. present Director, shareholder or has any pecuniary  
548. interest in its bid and confirm that all information  
549. presented in its bid are true and correct in all particulars.  
550. (h) possess current Ogun State Council of Chambers of  
551. Commerce, Industry, Mines and Agriculture  
552. (OGUNCCIMA) Certificate of Membership  
553. (7) The procuring entity may require a bidder to provide  
554. documentary evidence or other information it considers  
555. necessary as proof that the bidder is qualified in accordance  
556. with this Law and the solicitation documents and for this  
557. purpose any such requirements shall apply equally to all  
558. bidders.  
559. (8) Whenever it is established by a procuring entity or the  
560. Bureau that any or combinations of the situations set out below  
561. exist, a bidder may have its Bid or Tender excluded  
562. from any particular Procurement Proceeding if:  
563. (a) there is verifiable evidence that any supplier  
564. contractor or consultant has given or promised a gift  
565. of money or any tangible item or has promised, offered  
566. or given employment or any benefit, item or a service  
567. that can be quantified in monetary terms to a current  
568. or former employee of a procuring entity or the Bureau,  
569. in an attempt to influence any action, or decision  
570. making of any procurement activity.  
571. (b) a supplier, contractor or consultant during the last  
572. three years prior to the commencement of the  
573. procurement proceeding in issue, failed to perform or  
574. to provide due care in performance of any public  
575. procurement;  
576. (c) the bidder is in receivership or is the subject of any  
577. type of insolvency proceeding or if being a private  
578. company under the Companies and Allied Matters Act,  
579. is controlled by a person or persons who are subject  
580. to any bankruptcy proceeding or who have been  
581. declared bankrupt and/or have made any compromises  
582. with their creditors within two calendar years prior  
583. to the initiation of the Procurement Proceeding;  
584. (d) the bidder is in arrears regarding payment of due taxes,  
585. charges, pensions or social insurance contributions  
586. arising from operations in Nigeria, unless such bidders  
587. have obtained a lawful permit with respect to  
588. allowance, deference of such outstanding payment  
589. thereof in installments;  
590. (e) the bidder has been validity sentenced for a crime  
591. committed in connection with a Procurement Proceeding,  
592. or any other crime committed to gain financial profit; and  
593. (f) the bidder has in its management or is in any portion  
594. owned by any person that has been validity sentenced  
595. for crime committed to gain financial profit; and  
596. (g) the bidder fails to submit a statement regarding its



597. dominating or subsidiary relationship with respect to  
598. other parties to the proceeding and persons acting  
599. on behalf of the Procuring Entity participating in the  
600. same Proceeding or who remains in subordinate  
601. relationship to the proceedings.
602. (9) In such cases the Procuring Entity shall inform the Bureau  
603. and person referred to in Sub-section (8)(a)-(g) in writing  
604. that the bid or tender in question has been excluded and  
605. the grounds for the exclusion and keep a record of same in  
606. the file pertaining to the public procurement proceeding in  
607. question.
608. (10) All communications and documents issued by procuring  
609. entities and the Bureau shall be in the English Language.
610. (11) All communications regarding any matter deriving from this  
611. Law or Proceeding of Public Procurement shall be in writing  
612. or such other form as may be stipulated by the Bureau.
613. (12) Every Procurement Entity shall maintain both file and electronic  
614. records of all Procurement Proceedings made within each  
615. financial year and the Procurement records shall be maintained  
616. for a period of ten (10) years from the date of the award.
617. (13) Copies of all Procurement records shall be transmitted to  
618. the Bureau not later than 3 months after the end of the  
619. financial year and shall show:
620. (a) information identifying the procuring entity and the  
621. contractors
622. (b) the date of the contract and
623. (c) the value of the contract; and
624. (d) the detailed records of the Procurement Proceedings.
625. (14) The criteria stipulated as the basis upon which suppliers or  
626. contractors would be evaluated shall not be changed in the  
627. course of any Procurement Proceeding.
628. (15) The burden of proving fulfilment of the requirement for  
629. participation in any Procurement Proceeding shall lie on  
630. the supplier or contractor.
631. (16) A contract pertaining to goods, works and services shall be  
632. awarded to the lowest evaluated Responsive Bid from  
633. bidders substantially responsive to the Bid solicitation.
634. (17) Notwithstanding Sub-section (16), the Bureau may refuse  
635. to issue a "Certificate of No Objection to Contract Award"  
636. on the grounds that the price is higher than the prevailing  
637. market price;
638. (18) Pursuant to Sub-section (17), the Bureau may direct either  
639. that the Procurement Proceedings be entirely cancelled or  
640. that the Procuring Entity conducts a re-tender.
641. (19) The Accounting Officer of a Procuring Entity and any officer  
642. to whom responsibility is delegated are responsible and  
643. accountable for any actions taken or omitted to be taken  
644. either in compliance with or in contravention of this Law.
645. (20) The Accounting Officer of a Procuring Entity has the responsibility  
646. to ensure that the provisions of this Law and regulations



647. laid down by the Bureau are complied with, and concurrent  
648. approval by any Tenders Board shall not absolve the  
649. Accounting Officer from accountability for anything done  
650. in contravention of this Law or the regulations laid  
651. down hereunder.
652. (21) Procurement and disposal decisions of a Procuring Entity  
653. shall be taken in strict adherence to the provisions of this  
654. Law and any regulations as may from time to time be  
655. laid down by the bureau.
656. (22) Persons who have been engaged in preparing for a  
657. procurement or part of the proceedings thereof may  
658. neither bid for the procurement in question or any part  
659. thereof either as main contractor or sub-contractor nor  
660. may they cooperate in any manner with bidders in the  
661. course of preparing their tenders.
662. (23) A Procuring Entity shall not request or stipulate that a  
663. bidder should engage a particular subcontractor as a  
664. requirement for participating in any Procurement  
665. Proceedings.
666. (24) All procurement contracts shall contain provisions for  
667. arbitral proceeding as the primary form of dispute  
668. resolution.
669. (25) The value in procurement documents shall be stated in  
670. Nigerian currency and where stated in a foreign currency  
671. shall be converted to Nigerian currency using the  
672. exchange rate of the Central Bank of Nigeria valid on the  
673. day of opening a tender or bids.
674. (26) All procurement contracts shall contain warranties for  
675. durability of goods, exercise of requisite skills in service  
676. provision and use of genuine materials and inputs in execution.
677. **Part V-Organisation of Procurement**
678. 20. Subject to the monetary and prior review thresholds for  
679. procurements in this Law as may from time to time be  
680. determined by the Council, the following shall be the  
681. approving authority for the conduct of public procurement  
682. in the case of:
683. (i) a Government Agency, Parastatal or Corporation;  
684. a Parastatal's Tender Board;
685. (ii) a Ministry or Extra-Ministerial Entity; the Ministerial  
686. Tenders Board; and
687. (iii) a Local Government, the Local Government Tenders Board
688. 21. Subject to regulations as may from time to time be  
689. made by the Bureau under the direction of the Council, a  
690. Procuring Entity shall plan its Procurement by:
691. (i) preparing the needs assessment and evaluation;  
692. (ii) identifying the goods, works or services required;  
693. (iii) carrying out appropriate market and statistical  
694. surveys and on that basis prepare analysis of the  
695. cost implications of the Proposed Procurement;  
696. (iv) aggregating its requirements wherever possible, both  
697. within the Procuring Entity and between Procuring



698. Entities, to obtain economy of scale and reduce  
699. procurement cost;  
700. (v) integrating its Procurement expenditure into its  
701. yearly budget;  
702. (vi) Prescribing any method for effecting the Procurement  
703. subject to the necessary approval under this law; and  
704. (vii) ensuring that the Procurement Entity functions  
705. stipulated in this section shall be carried out by  
706. the Procurement Planning Committee.
707. 22. Subject to regulations as may from time to time be made  
708. by the Bureau with approval of the council, procuring  
709. entity shall, in implementing its procurement plans:  
710. (a) advertise and solicit for bids in adherence to this  
711. Law and guidelines as may be issued by the Bureau  
712. from time to time;  
713. (b) receive, evaluate and make a selection of the bids  
714. received in adherence to this Law and guidelines as  
715. may be issued by the bureau from time to time;  
716. (c) invite two credible persons as observers in every  
717. procurement process, one person each  
718. representing a recognised organisation;  
719. (i) private sector professional organisation,  
720. whose expertise is relevant to the particular  
721. goods or service being procured; and  
722. (ii) non-governmental organisation working in  
723. transparency, accountability and anti-corruption  
724. areas; the observers shall not intervene  
725. in the procurement process but shall have right  
726. to submit their observation report to any  
727. relevant agency or body including their own  
728. organisations or associations.
729. (d) obtain approval of the approving authority before  
730. making an award;  
731. (e) debrief the bid losers on request  
732. (f) resolve complaints and disputes if any;  
733. (g) obtain and confirm the validity of any performance  
734. guarantee;  
735. (h) obtain a Certificate of "No Objection" to Contract  
736. Award" from the Bureau within the prior review  
737. threshold as stipulated in Section 19 (3):  
738. (i) execute all Contract Agreements; and  
739. (j) announce and Publicise the award in the format  
740. stipulated by this Law and guidelines as may be issued  
741. by the Bureau from time to time.
742. 23. (1) The Accounting Officer of a procuring entity shall be the  
743. person charged with line supervision of the conduct of all  
744. procurement processes; in the case of Ministries, the  
745. Permanent Secretary and in the case of Extra-Ministerial  
746. Departments and Parastatals, the General Manager,  
747. Executive Secretary or Officer of co-ordinate responsibility.



748. (2) The Accounting Officer of every procuring entity shall have overall responsibility for the planning and organisation of tenders, evaluation of tenders and execution of all procurements and in particular shall be responsible for:
- 749.
- 750.
- 751.
752. (a) ensuring compliance with the provisions of this law by his entity and liable in person for the breach or contravention of the Law or any regulation made hereunder whether or not the act or omission was carried out by him personally or any of his subordinates and it shall not be material that he had delegated any function, duty or power to any person or group of persons;
- 753.
- 754.
- 755.
- 756.
- 757.
- 758.
759. (b) constituting the procurement planning committee and its decisions;
- 760.
761. (c) ensuring that appropriation is provided specifically for the procurement in the State budget;
- 761.
763. (d) integrating his entity's procurement expenditure into its yearly budget;
- 764.
765. (e) ensuring that no reduction of values or splitting of procurements is carried out such as to evade the use of the appropriate procurement method;
- 766.
767. (f) Constituting the Evaluation Committee;
- 768.
769. (g) liaising with the Bureau to ensure the implementation of its regulations.
- 770.
771. 24.(1) For each financial year, each procuring entity shall establish a Procurement Planning Committee. Procurement Planning Committee
- 772.
773. (2) The Procurement Planning Committee shall consist of:
774. (a) The Accounting Officer of the procuring entity or his representative who shall chair the Committee.
- 775.
776. (b) a representative of:
777. (i) the procurement unit of the procuring entity who shall be the Secretary;
- 778.
779. (ii) the unit directly in requirement of the procurement;
780. (iii) the financial unit of the procuring entity;
781. (iv) the planning, research and statistics unit of the procuring entity; and
782. (v) the procuring entity with expertise in the subject matter for each particular procurement.
- 783.
784. (vi) the Ministry of Justice
- 785.
786. 25.(1) There is hereby established by this law in each procuring entity, a Tenders Board (in this law referred to as "the Tenders Board"). Tenders Board
- 787.
- 788.
789. (2) Subject to the approval of the Council, the Bureau shall, from time to time, prescribe guidelines for the membership of the Tenders Board.
- 790.
- 791.
792. (3) The Tenders Board shall be responsible for the award of procurements of goods, works and services subject to the prior review process of the Bureau where applicable.
- 793.
- 794.
795. (4) In all cases where there is a need for pre-qualification and/or examination and evaluation of bids, the Chairman of the Tenders Board shall constitute a technical evaluation Sub-Committee, which shall be made up of professional Staff of
- 796.
- 797.
- 798.



799. the procuring entity and the Secretary of the Tenders Board  
800. who shall be the Chair of the Technical Evaluation Sub-  
801. Committee.
802. (5) The decision of the Tenders' Board shall be communicated  
803. to the Head of the Procuring Entity for implementation.
804. 26. (1) Where a Procuring Entity has made a decision with respect  
805. to the minimum qualifications of suppliers, contractors or  
806. service providers by requesting interested bidders to submit  
807. applications, to pre-qualify it shall set out precise criteria  
808. upon which it seeks to give consideration to the applications  
809. and in reaching a decision as to which supplier, contractor  
810. or service provider qualifies, shall apply only the criteria set  
811. out in the pre-qualification documents and no more.
812. (2) Procuring Entities shall supply a set of pre-qualification  
813. document to each supplier contractor or consultant that  
814. request them, and the price that a Procuring Entity may  
815. charge for the pre-qualification documents shall reflect only  
816. the cost of printing and provision to suppliers or contractors  
817. and consultants.
818. (3) The pre-qualification document shall include:
819. (a) instructions to prepare and submit pre-qualification  
820. application;
821. (b) a summary of the main terms and conditions required  
822. for the Procurement Proceedings.
823. (c) any documentary evidence or other information that  
824. must be submitted by suppliers, contractors or  
825. consultant to demonstrate their qualifications.
826. (d) the manner and place for the submission of  
827. applications to pre-qualify and the deadline for the  
828. submission, expressed as a specific date and time  
829. which allows sufficient time for suppliers, contractors  
830. or consultants to prepare and submit their application  
831. taking into account the reasonable need of the  
832. procuring entity; and
833. (e) any other requirement that may be established by the  
834. procuring entity in conformity with this Law and  
835. procurement regulations relating to the preparation and  
836. submission of applications to pre-qualify and to the  
837. pre-qualification proceedings.
838. (4) The procuring entity shall respond to any request by a  
839. supplier, contractor or consultant for clarification of the pre-  
840. qualification documents if the request is made at least Twenty  
841. one (21) days before the deadline for the submission of  
842. applications to pre-qualify.
843. (5) The response by the procuring entity shall be given within a  
844. reasonable time which shall not be more than fourteen (14)  
845. working days so as to enable the supplier, contractor or  
846. consultant to make a timely submission of its application  
847. to pre-qualify.
848. (6) The response to any clarification shall be communicated to  
849. all the bidders who purchased the bids or received the

Pre-Qualification



850. proposal without identifying the source of the request.
851. (7) A procuring entity shall promptly notify each supplier,  
852. Contractor or Consultant which submitted an application  
853. to pre-qualify of whether or not it has been pre-qualified  
854. and shall make available to any member of the general  
855. public upon request the names of the Suppliers,  
856. Contractors or Consultants who have been pre-qualified.
857. (8) Suppliers, Contractors or Consultants who have been pre-  
858. qualified may participate further in the Procurement Proceedings.
859. (9) The Procuring Entity shall upon request communicate to  
860. Suppliers, Contractors or Consultants who have not been  
861. pre-qualified, the grounds for disqualification.
862. (10) As part of the post-qualification of bidders, the Procuring  
863. Entity shall require Suppliers, Contractors or service  
864. providers who have been pre-qualified to demonstrate their  
865. qualifications again in accordance with the same criteria  
866. used to pre-qualify the suppliers, contractors or consultants.
867. (11) The procuring entity shall promptly notify each supplier,  
868. contractor or service provider requested to demonstrate its  
869. qualifications again whether or not the supplier, contractor or  
870. consultant has done so to the satisfaction of the procuring entity.
871. (12) The procuring entity shall disqualify any supplier,  
872. contractor or service provider who fails to demonstrate  
873. its qualification again if requested to do so.

**Part VI Procurement Methods (Works, Goods And Non-Consulting Services)**

874. (1) Except as provided by this Law, all procurements of works,  
875. goods and non-consulting services shall be conducted  
876. 27. (1) by Open Competitive Bidding.
877. (2) Any reference to Open Competitive Bidding in this Law  
878. means the process by which a procuring entity, based  
879. on previously defined criteria, effects public procurements  
880. by offering to every interested bidder equal simultaneous  
881. information and opportunity to offer the works, goods and  
882. non-consulting services needed.
883. (3) The winning bid shall be the lowest evaluated responsive  
884. bid from amongst bids which are adjudged responsive to  
885. the bid with regards to specifications and other criteria  
886. and conditions stipulated in the bidding documents.
887. (1) Invitations to bid may either be by way of State  
888. 28. (1) Competitive Bidding or International Competitive Bidding  
889. and the Bureau shall from time to time set the monetary  
890. threshold for which procurements shall fall under either system.
891. (2) Every invitation to State and International Competitive  
892. bids shall, in the case of works, goods and non-consulting  
893. services be advertised in at least two national newspapers  
894. and one relevant internationally recognized publication,  
895. any official websites of the procuring entity and the  
896. Bureau as well as the Procurement Journal not less than  
897. six weeks before the deadline for Submission of the bids  
898. for the goods and works, goods and non-Consulting Services.  
899.  
900.

Open Co  
Bidding



901. 29. (1) Subject to the monetary and prior review thresholds as  
902. may from time to time be set by the Bureau, all procurements  
903. valued in excess of the sums prescribed by the Bureau  
904. shall require a bid security in an amount not more than  
905. 2% of the bid price by way of a bank guarantee issued  
906. by a reputable bank acceptable to the procuring entity.  
907. (2) The Bureau shall from time to time specify the principal  
908. terms and conditions of the required bid security in the  
909. tender documents.  
910. (3) When the Procuring Entity requires Suppliers or  
911. Contractors submitting tenders to provide a bid security,  
912. the requirement shall apply to each Supplier or Contractor.  
913. 30. (1) All Bids in response to an invitation to Open Competitive  
914. Bidding shall be submitted in writing and in addition to  
915. any other form stipulated in the tender documents, signed  
916. by an Official authorised to bind the Bidder to a Contract  
917. and placed in a sealed envelope.  
918. (2) All submitted bids shall be deposited in a secured tamper-  
919. proof bid box.  
920. (3) All Bids submitted shall be in English Language.  
921. (4) The procuring entity shall issue a receipt showing the  
922. date and time the bid was delivered.  
923. (5) Any bid received after the deadline for the submission of  
924. bids shall not be opened and must be returned to the  
925. supplier or contractor which submitted it.  
926. (6) No communication shall take place between procuring  
927. entities and any supplier or contractor after the publication  
928. of a bid solicitation other than as provided in this Law.  
929. 31. A procuring entity may:  
930. (a) reject all bids at any time prior to the acceptance  
931. of a bid, without incurring any liability to the  
932. bidders; and  
933. (b) cancel the procurement proceeding in the public  
934. interest, without incurring any liability to the bidders.  
935. 32. (1) The period of validity for a bid shall be the period specified  
936. in the tender documents.  
937. (2) A procuring entity may request supplier or contractors  
938. to extend the period of validity for an additional specified  
939. period of time.  
940. (3) A supplier or contractor may refuse the request for the  
941. extension of bids, in which case the effectiveness of its  
942. bid will terminate upon the expiration of the un-extended  
943. period of effectiveness.  
944. (4) A supplier or contractor may modify or withdraw its bid  
945. prior to the deadline for the submission of bids.  
946. (5) The modification or notice of withdrawal is effective, if it  
947. is received by the procurement entity before the deadline  
948. for the submission of tenders.  
949. 33. All Bids shall be submitted before the deadline or date  
950. specified in the tender documents or any extension of

Bid Security

Submission of Bid

Rejection of Bid

Validity period of  
bids, modification  
and withdrawal of  
tenders

Bid Opening



951. the deadline for submission and the Procuring Entity shall:
952. (a) permit attendees to examine the envelopes in which
953. the Bids have been submitted to ascertain that the
954. Bids have not been tampered with;
955. (b) cause all the Bids to be opened in public, in the
956. presence of the bidders or their representatives and
957. any interested member of the public;
958. (c) ensure that the opening takes place immediately
959. following the deadline stipulated for the submission
960. of Bids or any extension thereof;
961. (d) ensure that a register is taken of all those present
962. at the bid opening and the organisations they
963. represent which are recorded and endorsed by the
964. Secretary of the Tenders' Board or his delegate and
965. any other official of the Bureau present; and
966. (e) call-over to the hearing of all present, the name
967. and address of each bidder, the total amount of each
968. bid, the bid currency and shall ensure that details
969. are recorded by the Secretary of the Tenders Board
970. or his delegate in the minutes of the Bid opening.
971. 34. (1) All Bids shall be first examined to determine if they;
972. (a) meet the minimum eligibility requirements stipulated
973. in the Bidding documents;
974. (b) have been duly signed;
975. (c) are substantially responsive to the Bidding documents;
976. and
977. (d) are generally in order
978. (2) A procuring entity may ask a supplier or a contractor for
979. clarification of its bid submission in order to assist in the
980. examination, evaluation and comparison of bids.
981. (3) The following shall not be sought, offered or permitted:
982. (a) changes in prices;
983. (b) changes of substance in a bid; and
984. (c) changes to make an unresponsive bid responsive.
985. (4) Notwithstanding Sub-section (3), the procuring entity may
986. correct purely Arithmetical errors that are discovered
987. during the examination of tenders.
988. (5) The procuring entity shall give prompt notice of the
989. correction to the supplier or contractor that submitted the
990. Tender.
991. (6) A major deviation shall result in a rejection of Bid while a
992. minor deviation shall be subject to clarification.
993. (7) The following shall be considered as examples of major
994. deviations
995. (a) With respect to clauses in an offer;
996. (i) unacceptable sub-contracting;
997. (ii) unacceptable time schedule if time is of essence;
998. (iii) unacceptable alternative design; and
999. (iv) unacceptable price adjustment.
1000. (b) With respect to the status of the Bidder;

Bid Evaluation



1001. (i) the fact that he is ineligible or not pre-qualified, and
- 1002.
1003. (ii) the fact that he is uninvited;
1004. (c) with respect to Bid documents, an unsigned Bid;
1005. (d) with respect to time, date and location for submission:
1006. (i) any Bid received after the date and time for submission stipulated in the Solicitation Document; and
- 1007.
- 1008.
1009. (ii) any Bid submitted at the wrong location
1010. (8) In cases of major deviations, Bids shall not be considered any further and where unopened, shall be returned as such to the bidder.
- 1011.
- 1012.
1013. (9) In all cases of rejection, a letter stipulating the reasons for rejection shall be sent, and the bidder shall not be permitted to amend his bid to become compliant.
- 1014.
- 1015.
- 1016.
1017. (10) Subject to any provision to the contrary, the following shall be considered as examples of minor deviations;
- 1018.
1019. (a) the use of codes;
1020. (b) alternative design;
1021. (c) modified liquidated damages;
1022. (d) omission in minor items
1023. (e) discovery of arithmetical errors;
1024. (f) sub-contracting that is unclear and questionable;
1025. (g) different methods of construction;
1026. (h) difference in final delivery date;
1027. (i) difference in delivery schedule;
1028. (j) completion period where these are not of essence;
1029. (k) non-compliance with some technical local regulation;
1030. (l) payment terms;
1031. (m) any other condition that has little impact on the Bid; and
1032. (n) literature, brochures, audited accounts, certificate of registration.
- 1033.
1034. (11) In cases not mentioned above and 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;
- 1035.
- 1036.
- 1037.
1038. (a) where the impact on the costs is minor, it shall be regarded as minor deviation;
- 1039.
1040. (b) in cases of minor deviations, written clarification may be obtained from the supplier or contractor and, where applicable, an offer made for the correction of the minor deviation.
- 1041.
- 1042.
- 1043.
1044. (c) where a supplier or contractor does not accept the correction of a minor deviation his Bid shall be rejected;
- 1045.
- 1046.
1047. (d) at the stage of evaluation and comparison, all minor deviations shall be qualified in monetary terms.
- 1048.
- 1049.



1050. (12) For the rejection of a Bid, a written notice shall be  
1051. given promptly to the supplier.  
1052. 35. (1) For the evaluation and comparison of bids that have  
1053. been adjudged valid for the purpose of evaluation, no other  
1054. method or criteria shall be used except those stipulated  
1055. in the solicitation documents.  
1056. (2) The objective of bid evaluation shall be to determine  
1057. and select the lowest evaluated responsive bid from  
1058. bidders that have responded to the solicitation.  
1059. (3) In the course of its determination of the lowest  
1060. evaluated responsive bid from the bidders that have  
1061. responded to the bid solicitation, the Tenders Board  
1062. shall, in particular, undertake the following processes  
1063. as applicable;  
1064. (a) checking of deviations;  
1065. (b) checking of omissions with quantification of same;  
1066. (c) application of discounts, as applicable;  
1067. (d) clarification with bidders of questionable deviations;  
1068. (e) quantification with bidders of questionable  
1069. deviations;  
1070. (f) conversion to common currency;  
1071. (g) calculation and tabulation of bid amount with  
1072. domestic preference where applicable;  
1073. (h) determination of the lowest calculated prices in  
1074. order of rank;  
1075. (i) post-qualification of bidders, where applicable;  
1076. (j) listing of rejection of bids, where applicable;  
1077. (k) decision of rejection of all bids where justified;  
1078. (l) recommendation for award; and  
1079. (m) writing up of the bid evaluation report.  
1080. (4) All relevant factors, in addition to price, that will be  
1081. considered for the purposes of bid evaluation and the  
1082. manner in which such factors will be applied shall be  
1083. stipulated in the solicitation documents.  
1084. (5) Such factors shall be calculated in monetary terms  
1085. as stipulated in the solicitation documents and shall  
1086. include;  
1087. (a) for goods, among others, costs of transportation  
1088. and insurance, payment schedule, delivery time,  
1089. operating costs, efficiency, compatibility of the  
1090. equipment, availability of services and spare parts,  
1091. related training, safety, environmental benefits or  
1092. losses by damages;  
1093. (b) for works, in addition to factors stipulated in  
1094. Section 35 (1) and subject to Section 34(10)  
1095. if time is a critical factor, the value of early  
1096. completion; and  
1097. (c) the value of early completion under Section 34(10)  
1098. shall not be taken into account unless in  
1099. conformity with criteria pre-set in the



- bidding documents, the conditions of contract provide for commensurate penalties in case of late delivery.
- (6) Where bid prices are expressed in two or more currencies, the prices of all bids shall be converted to Nigerian currency, according to the rate specified in the solicitation documents.
- (7) If suppliers were pre-qualified, verification of the information provided in the submission for pre-qualification shall be confirmed at the time of award of contract and award may be denied to a Bidder who no longer has the capability or resources to successfully perform the contract.
- (8) After opening of bids, information relating to the examination, clarification and evaluation of bids and recommendations concerning award shall not be disclosed to Bidders or to persons not officially concerned with the evaluation process until the successful Bidder(s) is notified of the award.
36. (1) The successful Bid shall be that submitted by the lowest evaluated responsive Bidder from the Bidders who responded to the Bid solicitation. Award of Contract
- (2) Notwithstanding Sub-section (1), the selected bidder need not be the lowest cost Bidder provided the Procuring Entity can show good grounds derived from the provisions of this Law to that effect.
- (3) Notice of the acceptance of the Bid shall immediately be given to the successful Bidder.
37. (1) A Procuring Entity may grant a margin of preference in the evaluation of Tenders when comparing Tender from domestic Bidders with those from foreign Bidders or when comparing Tenders from domestic suppliers offering goods manufactured abroad. Domestic preference
- (2) Where a Procuring Entity intends to allow domestic preference, the bidding documents shall clearly indicate any preference to be granted to domestic suppliers and Contractors and the information required to establish the eligibility of a Bid for such preference.
- (3) Margins of preference shall apply only to Tenders under International Competitive Bidding.
- (4) The Bureau shall by regulation from time to time set the limits and the formula for the computation of margins of preference and determine the contents of goods manufactured locally.
38. (1) Subject to any other regulations as may be prescribed by the Bureau, a mobilization fee of not more than 25% may be paid to a Supplier or Contractor who shall provide the following: Mobilization Fee
- (a) in the case of State Competitive Bidding, an unconditional bank guarantee or insurance bond



1151. issued by an institution acceptable to the procuring entity; and
- 1152.
1153. (b) in the case of International Competitive Bidding, an unconditional bank guarantee issued by an institution acceptable to the procuring entity.
- 1154.
- 1155.
1156. (2) Once a mobilization fee has been paid to any Supplier or Contractor, no further payment shall be made to the supplier or contractor without an interim performance certificate issued in accordance with the contract agreement.
- 1157.
- 1158.
- 1159.
- 1160.
1161. 39. The provision of a Performance Guarantee shall be a precondition for the award of any contract. Performance Guarantee
- 1162.
1163. 40. Payment for the procurement of goods, works, and services shall be settled Promptly and diligently. Payment
- 1164.
1165. 41.(1) Every procuring entity shall maintain a comprehensive record of procurement proceedings. Record of Procurement
- 1166.
1167. (2) The records and documents maintained by Procuring Entities on Procurement shall be made available for inspection by the Bureau, an investigator appointed by the Bureau and the Auditor-General upon request and where donor funds have been used for the Procurement, donor Officials shall also have access upon request to Procurement files for the purpose of audit and review.
- 1168.
- 1169.
- 1170.
- 1171.
- 1172.
- 1173.
- 1174.
1175. **Part VII-Special and Restricted Method of Procurement**
1176. 42. (1) Notwithstanding the provisions of this Law, the Bureau may issue Certificate of No Objection upon conditions hereinafter prescribed. Two Stage Tender
- 1177.
- 1178.
1179. (2) A Procuring Entity shall engage in Procurement by two-stage Tendering process
- 1180.
1181. (a) where it is not feasible for the Procuring Entity to formulate detailed specifications for the goods or works or in the case of service, to identify their characteristics and where it seeks Tenders, proposals or offers on various means of meeting its needs in order to obtain the most satisfactory solution to its Procurement needs;
- 1182.
- 1183.
- 1184.
- 1185.
- 1186.
1187. (b) where the character of the goods or words are subject to rapid technological advances; 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 recover research and development cost; where the Procuring Entity applies this Law to Procurement concerned with national security and determines that the selected method is the most appropriate method of Procurement; or
- 1188.
- 1189.
- 1190.
- 1191.
- 1192.
- 1193.
- 1194.
- 1195.
- 1196.
- 1197.
- 1198.
- 1199.
- 1200.
1201. (c) where the Tender proceedings have been utilized



1202. but were not successful or the Tenders were rejected  
1203. by the Procuring Entity under an open competitive  
1204. Bid procedure and the Procuring Entity considers  
1205. that engaging in new tendering proceedings will not  
1206. result in a Procurement Contract.
1207. (3) The provisions of this Law, as regards the process for  
1208. open competitive Bidding shall apply to Two-Stage  
1209. tendering proceedings except to the extent that those  
1210. provisions vary from this section.
1211. (4) The invitation documents:  
1212. (a) shall call upon Suppliers or Contractors to submit  
1213. in the first stage of a Two-Stage Tendering  
1214. Proceedings, initial Tenders which contain their  
1215. proposals without a Tender Price; and  
1216. (b) may solicit proposals that relate to technical  
1217. quality or other characteristics of the goods,  
1218. works or services as well as contractual  
1219. terms and conditions of supply and may  
1220. stipulate the professional competence and  
1221. technical qualification of the suppliers or  
1222. contractors.
1223. (5) The Procuring Entity may, in the first stage, engage  
1224. in negotiations with any Supplier or Contractor  
1225. whose Tender has not been rejected under an open  
1226. competitive Bidding procedure with respect to any  
1227. aspect of its Tender.
1228. (6) In the second stage of the two-stage Tender proceedings,  
1229. the Procuring Entity;  
1230. (a) shall invite Suppliers or Contractors whose Tenders  
1231. have not been rejected to submit final Tenders with  
1232. prices on a single set of specifications;  
1233. (b) may, in formulating the specifications, delete  
1234. or modify any aspect of the technical or  
1235. quality characteristic of the goods, works  
1236. or service to be procured together with any  
1237. criterion originally set out in these tenders  
1238. documents, evaluate and compare and  
1239. ascertain the successful tenders;  
1240. (c) may add new characteristics or criteria that conform  
1241. to this Law;  
1242. (d) shall communicate to suppliers or contractors in  
1243. the invitation to submit final Tender, any deletion,  
1244. modification or addition; and  
1245. (e) may permit a supplier or contractor who does not  
1246. wish to submit final tenders to withdraw from the  
1247. tendering proceedings.
1248. (7) The final tenders shall be evaluated and compared in  
1249. order to ascertain the successful Tenders as defined in  
1250. an open competitive Bid.



1251. 43. (1) Subject to the approval by the Bureau, a Procuring Entity may engage in procurement by means of restricted tendering if:
- 1252.
- 1253.
1254. (a) the good, works or non-consulting services are available only from a limited number of suppliers or contractors nationwide; and
- 1255.
- 1256.
1257. (b) the procedure is used as an exception rather than the norm.
- 1258.
1259. But the process shall follow the laid down procedure for Open Competitive Bidding.
- 1260.
1261. (2) Where a Procuring Entity engages in restricted tendering.
1262. (a) it shall invite Tenders from the Suppliers and Contractors who can provide the goods, works or service; and
- 1263.
- 1264.
1265. (b) it shall select in a non-discriminatory manner the number of Suppliers or Contractors to ensure effective competition;
- 1266.
- 1267.
1268. (3) For the purposes of Sub-section (2), the Procuring Entity shall cause a notice of the selected tendering proceedings to be published in the Procurement Journal.
- 1269.
- 1270.
- 1271.
1272. (4) The provisions of this Law regarding the Open Competitive Bidding Procedure shall apply to the selective tendering proceedings, except to the extent that those provisions are varied by this section.
- 1273.
- 1274.
- 1275.
1276. 44. (1) A Procuring Entity may carry out Procurements by requesting for quotations from Suppliers or Contractors where the value of the goods or works to be procured does not exceed a sum that shall be set in the Procurement Regulation.
- 1277.
- 1278.
- 1279.
- 1280.
1281. (2) Generally quotations shall be obtained from a minimum of three Contractors or Suppliers from within or outside the State
- 1282.
- 1283.
1284. (3) Each Contractor or Supplier from whom a quotation is requested shall;
- 1285.
1286. (a) be informed whether any factors other than the charges for the goods, works or services, such as any applicable transportation and insurance charge, custom duties and taxes are to be included in the price; and
- 1287.
- 1288.
- 1289.
- 1290.
1291. (b) give only one quotation and shall not be allowed to change or vary the quotation.
- 1292.
1293. (4) No negotiation shall take place between procuring entity and the contractor or supplier with respect to a quotation.
- 1294.
- 1295.
1296. (5) The procurement shall be awarded to the qualified contractor or supplier that gives the lowest evaluated responsive Bid.
- 1297.
- 1298.
1299. (6) Where the total value of the Procurement is not more than the sum that shall be set in the regulation, the
- 1300.



1301. procuring entity may not obtain the Bureau's approval.  
 1302. 45. (1) A Procuring Entity may carry out any direct Procurement  
 1303. where:  
 1304. (a) goods, works or non-consultancy services are  
 1305. only available from a particular supplier or  
 1306. contractor or if a particular supplier has exclusive  
 1307. rights in respect of the goods, works or non-  
 1308. consultancy services, and no reasonable  
 1309. alternative or substitute exists;  
 1310. (b) a procuring entity which has procured goods,  
 1311. equipment, technology or non-consultancy  
 1312. services from a supplier or contractor, determines  
 1313. that;  
 1314. (i) additional supplies need to be procured  
 1315. from that supplier or contractor because  
 1317. of standardization;  
 1318. (ii) there is a need for compatibility with  
 1319. existing goods, equipment, technology or  
 1320. non-consultancy services, taking into  
 1321. account the effectiveness of the original  
 1322. Procurement in meeting the needs of the  
 1323. Procurement Entity;  
 1324. (iii) the limited size of the proposed  
 1325. Procurement in relation to the original  
 1326. Procurement provides justification;  
 1327. (iv) the reasonableness of the price and the  
 1328. unsuitability of alternatives to the goods or  
 1329. non-consultancy services in question  
 1330. merits the decision;  
 1331. (v) the Procuring Entity seeks to enter into a  
 1332. contract for experiment, study or development,  
 1333. except where the contract includes the  
 1334. production of goods in quantities to which  
 1335. there is commercial viability or recover research  
 1336. and development costs; or  
 1337. (2) The Procuring Entity:  
 1338. (a) may procure the goods, works or non-  
 1339. consultancy services by inviting a proposal  
 1340. or price quotation from a single Supplier or  
 1341. Contractor;  
 1342. (b) shall include in the record of Procurement  
 1343. proceedings a statement of the grounds for  
 1344. its decision and the circumstances in  
 1345. justification of single source Procurement.  
 1346. (3) A Procuring Entity may for the purpose of this Law,  
 1347. carry out an emergency Procurement where:  
 1348. (a) the Country is either seriously threatened by  
 1349. or actually confronted with a disaster,  
 1350. catastrophe, war, insurrection or act of God;  
 1351. (b) the condition or quality of goods, equipment,  
 1352. building or publicly owned capital goods may



1353. seriously deteriorate unless action is urgently and necessarily taken to maintain them in their actual value or usefulness;
- 1354.
- 1355.
1356. (c) a public project may be seriously delayed for want of an item of a minor value;
- 1357.
1358. (d) there is an urgent need for the goods, works or non-consultancy services and engaging in tender proceeding or any other method of procurement is impractical due to unforeseeable circumstance giving rise to the urgency which is not as a result of dilatory conduct on the part of the Procuring Entity; or
- 1359.
- 1360.
- 1361.
- 1362.
- 1363.
- 1364.
- 1365.
1366. (e) owing to a catastrophic event, there is an urgent need for the goods works or non-consultancy services, making it impractical to use other methods of procurement because of the time involved in using those methods.
- 1367.
- 1368.
- 1369.
- 1370.
- 1371.
1372. (4) In an emergency situation, a procuring entity may engage in direct contracting of goods, works and non-consultancy services.
- 1373.
- 1374.
1375. (5) All procurement made under emergencies shall be handled expeditiously in conformity with principles of accountability, due consideration being given to the gravity of each emergency.
- 1376.
- 1377.
- 1378.
1379. (6) Immediately after the cessation of the situation warranting any emergency Procurement, the Procuring Entity shall file a detail report thereof with the Bureau which shall verify same and if appropriate, issue a Certificate of No Objection.
- 1380.
- 1381.
- 1382.
- 1383.
1384. 46. The Bureau may from time to time approve the use of other Procurement methods such as Limited International Competitive Bidding and Force Account. The circumstances under which these Procurement methods shall be used shall be specified in the regulations.
- 1385.
- 1386.
- 1387.
- 1388.
- 1389.
- 1390.
1391. 47. **Part VIII-Procurement of Consultancy Services**
1392. (a) Where a Procuring Entity wishes to Procure services for its needs which are precise and ascertainable it shall-solicit for the expressions of interest or applications to Prequalify to provide for services by publishing a notice to that effect in at least two national newspapers and the Procurement Journal.
- 1393.
- 1394.
- 1395.
- 1396.
- 1397.
1398. (b) provide for selective tendering and direct request for abridged proposals where services are of such low value stipulated from time to time by the Bureau;
- 1399.
- 1400.
- 1401.
1402. (c) provide for contents of such abridged proposals; and
1403. (d) provide for Request for Proposals following

Other Procurement  
Methods

Introduction



1404.	shortlisting from an Expression of interest process.	
1405. 48.	The Procuring Entity shall be responsible for preparing and implementing the project, selecting the consultant, awarding and subsequently administering the contract.	General Consideration
1406.		
1407.		
1408.	While the specific rules and procedures to be followed for employing consultants depend on the circumstances of the particular case, five main considerations shall guide the selection process:	
1409.		
1410.		
1411.		
1412.	(a) the need for high-quality services;	
1413.	(b) the need for economy and efficiency;	
1414.	(c) the need to give all eligible consultants an opportunity to compete;	
1415.		
1416.	(d) Government's interest in encouraging the development of local capacity and	
1417.		
1418.	(e) the need for transparency in the selection process.	
1419. 49.	The Procuring Entity shall be responsible for preparing the TOR for the assignment. The TOR shall define clearly the objectives, goals, and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to facilitate the consultants preparation of their proposals.	Terms of Reference (TOR)
1420.		
1421.		
1422.		
1423.		
1424.		
1425. 50.	The selection methods shall be based either on quality or a combination of quality and cost based on the threshold established by the Bureau. The different selection methods shall be defined in the regulations made pursuant to this Law.	Selection Methods
1426.		
1427.		
1428.		
1429.		
1430. 51.	The Selection process shall include the following steps as applicable:	Selection Procedure
1431.		
1432.	(a) preparation of the Terms of Reference;	
1433.	(b) preparation of cost estimate and the budget, and short listing criteria;	
1434.		
1435.	(c) advertising;	
1436.	(d) Expression of Interests and preparation of the short list of consultants.	
1437.		
1438.	(e) preparation and issuance of the Request For Proposal (which should include, the Letter of Invitation (LOI); Instructions To Consultants (ITC), the TOR and the proposed draft Contract;	
1439.		
1440.		
1441.		
1442.	(f) receipt of proposals;	
1443.	(g) evaluation of Technical Proposals and consideration of quality	
1444.		
1445.	(h) public opening of Financial Proposals;	
1446.	(i) evaluation of Financial Proposal;	
1447.	(j) final evaluation of quality and cost; and	
1448.	(k) negotiations and award of the contract to the selected firm.	
1449.		
1450. 52. (1)	Where a procuring entity wishes to procure services, an Expression of Interests shall be advertised in one national newspaper and the Procurement Journal.	Expression of interest to provide services
1451.		
1452.		
1453. (2)	The expressions received shall be evaluated using the evaluation criteria disclosed in the advert.	
1454.		



- 1455. (3) A maximum of six (6) firms shall be shortlisted and issued with the Request for Proposal.
- 1456.
- 1457. (4) A short list shall be made of consultants for consulting services within a set threshold in the Procurement regulation provided that such consultants possess such requisite skills.
- 1458.
- 1459.
- 1460.
- 1461. 53. Request for Proposal shall include:
- 1462. (1) (a) the name and address of the Procuring Entity;
- 1463. (b) a requirement that the proposals are to be prepared in the English language;
- 1464.
- 1465. (c) the manner, place and deadline for the submission of proposal;
- 1466.
- 1467. (d) a statement to the effect that the Procuring Entity reserves the right to reject proposals;
- 1468.
- 1469. (e) the criteria and procedure for the evaluation of the qualifications of the consultants.
- 1470.
- 1471. (f) the requirement on documentary evidence or other information that shall be submitted by consultants to demonstrate their qualification;
- 1472.
- 1473. (e) the nature and required characteristics of the services to be provided and the time when the services are to be provided;
- 1474.
- 1475. (h) whether the Procuring Entity is seeking proposals on various possible ways of meeting its needs;
- 1476.
- 1477. (i) a requirement that the proposal price is to be expressed in Nigerian Currency;
- 1478.
- 1479. (j) the manner in which the proposal price is to be expressed, including a statement on whether the price covers elements apart from the cost of services, such as reimbursement for transportation, lodging, insurance, use of equipment, duties or taxes;
- 1480.
- 1481. (k) whether the procedure to ascertain the successful proposal shall be based on the lowest cost or quality and/or a combination of the lowest cost, quality and criteria other than cost but stipulated in the request for proposals; and
- 1482.
- 1483. (l) a short list shall be made of only national consultants for consulting assignment, contract within a set of threshold in the procurement regulation provided that the national consultants possess such requisite skills.
- 1484.
- 1485.
- 1486.
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- 1488.
- 1489.
- 1490.
- 1491.
- 1492.
- 1493.
- 1494.
- 1495.
- 1496.
- 1497. (2) The Procuring Entity shall provide uniform information in the request for proposals sent to all consultants.
- 1498.
- 1499. 54. (1) A consultant shall be allowed to request for clarification on the request for proposal from the Procuring Entity and such requests may be made within a reasonable time to be specified in the Request for Proposal.
- 1500.
- 1501.
- 1502.
- 1503. (2) A Procuring Entity may, whether on its initiative or as a result of a request for clarification by a consultant,
- 1504.

Content of the Requests for Proposals

Clarification and Modification of Request for Proposals (RFP)



1505. modify the request for proposals by issuing an  
 1506. addendum at any time prior to the deadline for  
 1507. submission of proposals.  
 1508. (3) The addendum shall be communicated at least fourteen  
 1509. (14) days before the deadline for the Submission of  
 1510. proposals to the consultants that received the Request  
 1511. for Proposal.  
 1512. (4) If the Procuring Entity convenes a pre-proposal  
 1513. conference, it shall prepare minutes of meeting  
 1514. containing all the issues discussed;  
 1515. (5) The minutes shall be provided to all the consultants  
 1516. participating in the selection proceedings to enable  
 1517. them take the minutes into account in their proposals  
 1518. at least fourteen (14) days before the deadline for the  
 1519. Submission of proposals.  
 1520. 55. (1) The Procuring Entity shall allow sufficient time for the  
 1521. preparation and Submission of the requested  
 1522. proposals but shall in no case give less than thirty (30)  
 1523. days between the issuance of the RFP and the deadline  
 1524. for Submission.  
 1525. (2) The Technical and Financial Proposals shall be submitted  
 1526. simultaneously in separate envelopes or in one  
 1527. envelope, depending on the selection method.  
 1528. (3) A proposal received after the deadline for Submission  
 1529. of proposals shall be returned to the sender unopened.  
 1530. (4) Where the two-envelope procedure applies, immediately  
 1531. after the deadline for Submission of proposals, the  
 1532. technical proposals shall remain sealed and kept in a  
 1533. secure Bid-box to be opened publicly.  
 1534. (5) The Evaluation Committee members shall not have  
 1535. access to or insights to the financial proposals until  
 1536. the completion of the technical evaluation, including  
 1537. Tender Boards review and approval, are concluded.  
 1538. (6) The Procuring Entity shall notify the consultants  
 1539. whose proposals did not meet the minimum  
 1540. qualifying mark or were non responsive to the  
 1541. invitation for proposals and terms of reference after  
 1542. the evaluation of quality is completed and return  
 1543. their financial proposals within a period of fourteen  
 1544. (14) working days after the decision has been  
 1545. taken by the Procurement Entity.  
 1546. (7) Upon approval of Technical Evaluation Report by the  
 1547. Tenders Board, the financial proposals shall be opened  
 1548. publicly.  
 1549. (8) The Committee shall then carry out a combined  
 1550. technical and financial evaluation report for review and  
 1551. approval of the Tenders Board.  
 1552. 56. (1) The successful proposals shall be:  
 1553. (a) the lowest evaluated price; or  
 1554. (b) the best combined evaluation in terms of the  
 1555. general criteria set out in the request for  
 1556. proposals and the price quoted.

Submission and  
 Evaluation of  
 Proposals

Negotiation and  
 Award of Contract



1557. (2) The consultant with the winning proposal shall be  
 1558. invited for negotiations.
1559. (3) The final recommendation, including the minutes of  
 1560. negotiation and draft contract, shall be submitted to  
 1561. the Tenders Board for review and approval.
1562. (4) Upon approval by the Tenders Board, the winning  
 1563. consultant shall be invited for contract signature. A  
 1564. synopsis of the combined evaluation report should be  
 1565. published in accordance with thresholds established  
 1566. by the Bureau.
1567. **Part IX-Procurement Surveillance and Review**
1568. 57. (1) The Bureau may review and recommend for  
 1569. investigation by any relevant authority any matter  
 1570. related to the conduct of procurement proceedings by  
 1571. a Procuring Entity, or the conclusion or operation of a  
 1572. procurement contract if it considers that a criminal  
 1573. investigation is necessary or desirable to prevent or  
 1574. detect a contravention of this Law.
1575. (2) The relevant authority may in the course of  
 1576. investigation:
1577. (a) require an Officer, employee or agent of the  
 1578. Procuring Entity or Bidder, Supplier, Contractor or  
 1579. consultant to produce any books, records  
 1580. accounts or documents;
1581. (b) search premises for any books, records,  
 1582. accounts or documents;
1583. (c) examine and make extracts from the copies of  
 1584. books, records, accounts or documents of any  
 1585. Procuring Entity, Bidder, Supplier, Contractor or  
 1586. Consultant;
1587. (d) remove books, records, accounts or documents  
 1588. of the Procuring Entity, Bidder, Supplier,  
 1589. Contractor or Consultant for as long as may be  
 1590. necessary to examine them or make extracts  
 1591. from or copies of them but investigator shall give  
 1592. a detailed receipt for the books, records,  
 1593. accounts or documents removed;
1594. (e) require an Officer, employee or agent of the  
 1595. Procuring Entity or Bidder, Supplier, or Contractor  
 1596. or Consultant to;
1597. (i) explain an entry in the books, records, accounts  
 1598. or documents; and
1599. (ii) provide the investigator with information  
 1600. concerning the management or activities of  
 1601. the Procurement Entity or Bidders as may  
 1602. be reasonably required.
1603. (3) The Bureau may, pursuant to the advice of the  
 1604. Procuring Entity, as a result of its review of a Procurement  
 1605. or report of investigation by a relevant Government  
 1606. agency issue a variation order requiring a Contractor

Bureau to  
 recommend  
 investigation



1607. at his own expense to repair, replace, or to do  
 1608. anything in his or her contract left undone or found to  
 1609. have been carried out with inferior or defective materials  
 1610. or with less skill and expertise than required by the  
 1611. contract of award.
1612. (4) The Bureau shall, if satisfied that there has been a  
 1613. contravention of this Law, or any regulation in  
 1614. procurement proceedings or a procurement contract,  
 1615. take action to rectify the contravention, such action  
 1616. shall include;
1617. (a) nullification of the procurement proceedings;  
 1618. (b) cancellation of the procurement contract;  
 1619. (c) ratification of anything done in relation to the  
 1620. proceedings; or  
 1621. (d) a declaration consistent with any relevant  
 1622. provisions of this Law.
1623. (5) On the completion of the investigation, the relevant authority  
 1624. shall, if an offence is disclosed take all necessary steps to  
 1625. commence prosecution and inform the Bureau and the  
 1626. Procuring Entity accordingly, but where no offence is  
 1627. disclosed, the file shall be closed and the Bureau and  
 1628. Procuring Entity shall be duly informed.
1629. 58. (1) A Bidder may seek administrative review for any Complaint  
Mechanism  
 1630. omission or breach by a procuring or disposing entity  
 1631. under the provisions of this Law, or any regulations or  
 1632. guidelines made under this Law, or the provisions of  
 1633. Bidding documents.
1634. (2) A complaint by a Bidder against a procuring or disposing  
 1635. entity shall first be submitted in writing to the Accounting  
 1636. Officer within fifteen (15) working days from the date the  
 1637. Bidder first became aware of the circumstances giving  
 1638. rise to the complaint or should have become aware of the  
 1639. circumstances, whichever is earlier.
1640. (3) On reviewing a complaint, the Accounting Officer shall  
 1641. make a decision in writing within fifteen (15) working days  
 1642. indicating the corrective measures to be taken, if any,  
 1643. including the suspension of the proceeding where he  
 1644. deems it necessary and giving reasons for his decision.
1645. (4) If the Bidder is not satisfied with the decision of the  
 1646. Accounting Officer or the Accounting Officer does not  
 1647. respond to the complaints within the period specified in  
 1648. Sub-section 3 above, the bidder may make a complaint  
 1649. to the Bureau within ten (10) working days from the date  
 1650. of communication of the decision of the Accounting Officer.
1651. (5) Upon receipt of a complaint, the Bureau shall promptly:
1652. (a) Give notice of the complaint to the respective  
 1653. procuring or disposing entity and suspend any  
 1654. further action by the procuring or disposing entity  
 1655. until the Bureau has settled the matter;  
 1656. (b) unless it dismisses the complaint;



1657. (i) Prohibit a procuring or disposing entity from taking any further action;
1658. (ii) Nullify in whole or in part an unlawful act or decision made by the procuring or disposing entity;
1659. (iii) Declare the rules or principles that govern the subject matter of the complaint; and
1660. (iv) Revise an improper decision by the procuring or disposing entity or substitute its own decision for such a decision.
- 1661.
- 1662.
- 1663.
- 1664.
- 1665.
1666. (6) Before taking any decision on a complaint the Bureau shall notify parties concerned of the complaint and may take into account, representations from the parties.
- 1667.
- 1668.
1669. (7) The Bureau shall make its decision within twenty-one (21) working days after receiving the complaint, stating the reasons for its decisions and remedies granted, if any.
- 1670.
- 1671.
1672. (9) Where the Bureau fails to render its decision within the stipulated time, or the bidder is not satisfied with the decision of the Bureau, the bidder may appeal to the High Court within thirty (30) days after the receipt of the decision of the Bureau, or expiration of the time stipulated for the Bureau to deliver a decision.
- 1673.
- 1674.
- 1675.
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- 1677.
1678. **Part X-Disposal of Public Property**
1679. 59. (1) The Bureau shall, with the approval of the Council:
1680. (a) determine the applicable policies and practices in relation to the disposal of all public property;
1681. (b) issue guidelines detailing operational principle and organisational modalities to be adopted by all Procuring Entities engaged in the disposal of public property and;
1682. (c) issue standardized document, monitor implementation, enforce compliance and set reporting standards that shall be used by all Procuring Entities involved in the disposal of public property.
- 1683.
- 1684.
- 1685.
- 1686.
- 1687.
- 1688.
1689. (2) For the purpose of this Law, public property is defined as resources in the form of tangible and non-tangible assets (ranging from serviceable to unserviceable):
1690. (a) created through public expenditure;
1691. (b) acquired as a gift or through Deed;
1692. (c) acquired in respect of intellectual or proprietary rights;
1693. (d) acquired on financial instruments (including shares, stocks, bonds etc); and
1694. (e) acquired by goodwill and any other gifts of the State Government.
- 1695.
- 1696.
- 1697.
- 1698.
1699. (3) The means of the disposal of public assets shall include;
1700. (a) sale and rental;
1701. (b) lease and hire purchase
1702. (c) licenses and tenancies;
1703. (d) franchise and auction;
1704. (e) transfers from one Government Department to another with or without financial adjustments and;
- 1705.



1706. (f) offer to the public at an authorized variation.
1707. 60. (1) Before slating any public property for disposal, the
1708. Accounting Officer (whether acting in his own authority
1709. or at the direction of any superior or other authority) in
1710. charge of any public property set for disposal shall
1711. authorise an independent Evaluator or such professional
1712. with the appropriate competence to carry out the
1713. valuation subject to regulations issued by Bureau.
1714. (2) The disposal of assets whether or not listed in the assets
1715. register for a Procuring Entity shall be planned and
1716. integrated in the income and expenditure budget
1717. projection of the Procuring Entity.
1718. (3) The disposal of assets referred to in Sub-section (2) shall
1719. be timed to take place when the most advantageous
1720. returns can be obtained for the assets in order to
1721. maximize revenue accruing to the government.
1722. (4) All Procuring Entities shall distribute responsibilities for
1723. the disposal of public property between the procurement
1724. unit and the Tenders Board.
1725. **Part XI-Code of Ethics**
1726. 61. (1) The Bureau shall with the approval of the Council, stipulate
1727. a code of ethics for all public officers, suppliers,
1728. contractors and service providers with regards to the
1729. standards of conduct acceptable in matters involving the
1730. procurement and disposal of public assets.
1731. (2) The conduct of all persons involved with public
1732. procurement, whether as official of the Bureau, a
1733. procuring entity, supplier, contractor or service provider
1734. shall at all times be governed by principles of honesty,
1735. accountability, transparency, fairness and equity.
1736. (3) All Officers of the Bureau, members of Tenders Board
1737. and other persons that may come to act regarding the
1738. conduct of public procurements shall subscribe to an
1739. oath approved by Council;
1740. (4) All persons in whose hands public funds may be
1741. entrusted for whatever purpose should bear in mind that
1742. utilization should be judicious.
1743. (5) Where a transaction involves the disposal of assets,
1744. principles of honesty, accountability, transparency,
1745. fairness and equity shall continue to apply to the same
1746. extent as where it involves procurement.
1747. (6) These principles shall apply at all times particularly when;
1748. (a) making requisition for or planning of procurements;
1749. (b) preparing solicitation document;
1750. (c) receiving offers in response to any form of
1751. solicitation towards a procurement or disposal;
1752. (d) evaluating and comparing offers confidentially and
1753. in complete neutrality;
1754. (e) protecting the interest of all parties without fear or favour



1755. (f) obviating all situations likely to render an Officer  
 1756. vulnerable to embarrassment or undue influence;  
 1757. (g) preparing for or disposing public property.
1758. (7) All public Officers involved in public Procurement and  
 1759. disposal of assets shall:  
 1760. (a) ensure adequate time for preparing offers  
 1761. (b) comply with this Law and all derivative regulations; and  
 1762. (c) ensure strict confidentiality of bids submitted and  
 1763. the examination and evaluation processes until  
 1764. notice has been issued to a winning Bidder that he  
 1765. has been selected.
1766. (8) All public Officers involved in public procurement and  
 1767. disposal of assets must maintain the highest standards  
 1768. of ethics in their relationship with persons, real or  
 1769. corporate, who seeks Government commerce whether  
 1770. as a Bidder, Supplier, Contractor or Service Provider by  
 1771. developing transparent, honest and professional  
 1772. relationships with such persons.
1773. (9) Every public Officer involved directly or indirectly in  
 1774. matters of public procurement and disposal of assets shall:  
 1775. (a) divest himself of any interest or relationships which  
 1776. are actually or potentially inimical or detrimental to  
 1777. the best interest of Government and the underlining  
 1778. principles of this Law; and  
 1779. (b) not engage or participate in any commercial  
 1780. transaction involving the State Government, its  
 1781. ministries, extra-ministerial departments or  
 1782. corporations where his capacity as a public Officer  
 1783. is likely to confer any unfair advantage pecuniary or  
 1784. otherwise, on him or any person directly related to him.
1785. (10) Any person engaged in the public procurement and  
 1786. disposal of assets who has assumed or is about to  
 1787. assume, a financial or other business relationship that  
 1788. might involve a conflict of interest, must immediately  
 1789. declare to the authorities any actual or potential interest.
1790. (11) Such a declaration shall be given such consideration as  
 1791. is necessary to effectively protect the integrity of the  
 1792. procurement process.
1793. (12) A conflict of interest exists where a person:  
 1794. (a) possesses an interest outside his Official duties that  
 1795. materially encroaches on the time or attention which  
 1796. should otherwise be devoted to affairs of government;  
 1797. (b) possesses a direct or indirect interest in or relationship  
 1798. with bidder, supplier, contractor or service provider  
 1799. that is inherently unethical or that may be implied  
 1800. or construed to be, or make possible personal gain  
 1801. due to the person's ability to influence dealings;  
 1802. (c) entertains relationships which are unethical  
 1803. rendering his attitude partial toward the outsider for



1804. personal reasons or otherwise inhibit the impartiality  
 1805. of the person's business judgements;  
 1806. (d) places by acts of omission or commission the Procuring  
 1807. Entity he represents or the government in an embarrassing  
 1808. or ethically questionable position;  
 1809. (e) entertains a relationship compromising the reputation or  
 1810. integrity of the Procuring Entity he represents or the Government;  
 1811. (f) receives benefits by taking personal advantage of an  
 1812. opportunity or property that belongs to the procuring entity he  
 1813. represents or the government;  
 1814. (g) creates a source of personal revenue or advantage by  
 1815. using public property which comes into his hands either  
 1816. in the course of his work or otherwise; and  
 1817. (h) discloses confidential information being either the property  
 1818. of his Procuring Entity or the Government to a Supplier,  
 1819. Contractor, Service provider or unauthorized persons.  
 1820. (13) A person involved in the disposal of assets shall not either  
 1821. by a third party or by himself be interested in any manner  
 1822. in buying directly or indirectly these assets and shall not  
 1823. have or obtain any type of advantage or revenue from the  
 1824. the disposal for a period of three years after the disposal.

1825. **Part XII-Offences**

1826. 62. (1) Any person, not being a public Officer who contravenes  
 1827. any of the provisions of this Law, shall be guilty of an offence  
 1828. and on conviction be liable to a term of imprisonment of not  
 1829. less than one (1) year, the upon conviction, shall debar  
 1830. such person for a period of not less than three (3) years and  
 1831. shall order full restitution of any loss to the Government or to a  
 1832. competitor in the process.  
 1833. (2) In addition to the jurisdiction conferred on the Ogun State High Court,  
 1834. the Court shall have power to try the offences specified under this Law.  
 1835. (3) The following shall also constitute offences under this Law;  
 1836. (a) Bidding for a public procurement based on false  
 1837. pretences, fraud and/or deliberate misrepresentation;  
 1838. (b) entering or attempting to enter into a collusive  
 1839. agreement, whether enforceable or not, with a  
 1840. supplier, contractor or service provider where the  
 1841. prices quoted in their respective tenders, proposals  
 1842. or quotations are or would be higher than would have  
 1843. been the case had there not been collusion between  
 1844. the persons concerned.  
 1845. (c) conduct or attempting to conduct procurement fraud  
 1846. by means of fraudulent and corrupt acts, promises,  
 1847. threats, unlawful influence, undue interest, agreement,  
 1848. corruption, bribery or other actions:  
 1849. (d) directly or indirectly influencing in any manner the  
 1850. procurement process to obtain an unfair advantage in the  
 1851. award of a procurement contract or an attempt of same;

Offences and  
 Penalties



1852. (e) splitting of tenders to enable the evasion of monetary  
1853. threshold set;
1854. (f) Bid rigging
1855. (g) altering any procurement document with intent to influence  
1856. the outcome of a tender proceeding;
1857. (h) altering or using fake documents or encouraging their use; and  
1858. (i) willful refusal to allow the Bureau or its Officers to  
1859. have access to any procurement records.
1860. (4) Any person whilst carrying out his duties as an Officer of the Bureau  
1861. or any procuring entity who contravenes any provision of this Law,  
1862. commits an offence and is liable on conviction to a cumulative  
1863. punishment of;
1864. (a) a term of imprisonment of Two (2) years and restitution  
1865. (where applicable); and  
1866. (b) Summary Dismissal from Government service.
1867. (5) Any legal person that contravenes any provision of this Law,  
1868. commits an offence and is liable on conviction to a cumulative  
1869. penalty of;
1870. (a) debarment from all Public Procurements for a period  
1871. of not less than five (5) calendar years; and  
1872. (b) a fine equivalent to the value of the Procurement in issue.
1873. (6) (a) where any legal person is convicted pursuant to Sub-section  
1874. (5) every Director of the company as listed on its records at  
1875. the Corporate Affairs Commission shall be guilty of an offence  
1876. and is liable on conviction to a term of imprisonment of not  
1877. less than three (3) years but not exceeding five (5) years  
1878. with an option of fine and restitution (where applicable).
1879. (b) A Director shall not be liable if he can show that;
1880. (i) it is the first time the company has been found  
1881. complicit in a public procurement dispute by a  
1882. Court, relevant Agency or the Bureau; or  
1883. (ii) he was not negligent took reasonable steps and  
1884. and exercised due diligence to prevent the  
1885. company's contravention of this Law.
1886. (7) An alteration pursuant to Sub-section 3 (g) shall include but  
1887. not limited to;
1888. (a) insertion of documents such as bid security or tax  
1889. clearance certificate which were not submitted at Bid  
1890. opening; and  
1891. (b) request for clarification in a manner not permitted under  
1892. this Law.
1893. (8) Collusion shall be presumed from a set of acts from which  
1894. it can be assumed that there was an understanding, implicit  
1895. formal or informal, over or covert under which each person  
1896. involved reasonably expected that the other would adopt a  
1897. particular course of action which would interfere with the  
1898. faithful and proper application of the provisions of this Law.
1899. (9) Bid rigging pursuant to Sub-section (3) (f) means an  
1900. agreement between persons whereby:



- 1901.
  - 1903.
  - 1904.
  - 1905.
  - 1906.
  - 1907.
  - 1908.
  - 1909.
- (a) offers submitted have been pre-arranged between them; or
  - (b) their conduct has had the effect of directly or indirectly restricting free and open competition, distorting the competitiveness of the Procurement Process and leading to an escalation or increase in costs or loss of value to the State Treasury.

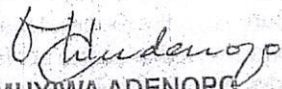
**PART XIII – MISCELLANEOUS**

- 1910.63. (1) The fixing of the seal of the Bureau shall be authenticated by the signature of the Chairman, the General Manager or of any other person generally or specially authorized to act for that purpose by the Council.
- 1911.
- 1912.
- 1913.
- 1914. (2) Any contract or instrument which is made or executed by a person not being a body corporate, would not be required to be under seal. It may be made or executed on behalf of the Bureau by the General Manager or any person generally or specially authorized to act for that purpose by the Council.
- 1915.
- 1916.
- 1917.
- 1918.
- 1919. (3) Any document purporting to be a document duly executed under the seal of the Bureau shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.
- 1920.
- 1921.
- 1922.
- 1923. (4) The validity of any proceeding of the Council or of a Committee thereof shall not be adversely affected by any vacancy in the membership of the Council or Committee, or by any defect in the appointment of a member of the Council or of a Committee, or by reason that a person not entitled to do so took part in the proceedings of the Council or Committee.
- 1924.
- 1925.
- 1926.
- 1927.
- 1928.
- 1929.



1. This printed impression has been carefully compared by me  
2. with the Bill which has been passed by the Ogun State House of  
3. Assembly and found by me to be a true and correct printed  
4. copy of the said Bill.

5.  
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9.  
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11.


  
MUYIWA ADENOGA

Clerk of the Ogun State House of Assembly

12.  
13.

14. Assented to by me this 08<sup>th</sup> day of JUNE 2015

15.  
16.  
17.  
18.



SENATOR IBIKUNLE AMOSUN, CON, FCA  
Governor, Ogun State of Nigeria.