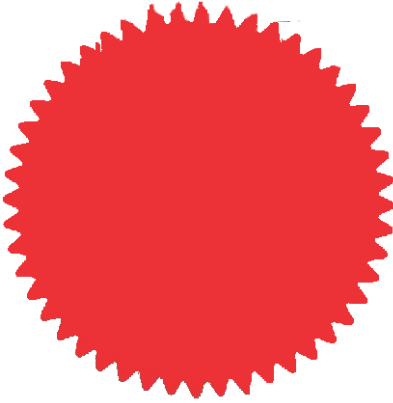


ASSENTED to by me this 23rd day of December 2024



*Ademola Jackson Nurudeen Adeleke*

.....  
**Senator Ademola Jackson Nurudeen Adeleke**  
*Executive Governor*

No. 18

2024



**OSUN STATE  
PUBLIC PROCUREMENT LAW, 2024**

**A LAW TO PROVIDE FOR THE  
ESTABLISHMENT OF THE OSUN STATE  
PUBLIC PROCUREMENT AGENCY AND  
FOR OTHER MATTERS CONNECTED  
THEREWITH**

BE IT ENACTED by the Osun State House of Assembly  
in this Legislative Session convened as follows:

*Enactment*

# **OSUN STATE PUBLIC PROCUREMENT LAW, 2024**



## **ARRANGEMENT OF SECTIONS**

### **SECTIONS:**

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2. Establishment.
3. Governing Council.
4. Appointment of Council Members.
5. Powers of the Governing Council.
6. Tenure of Office
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## **SCHEDULE**

1. Powers of the Governing to Council Co-opt persons
2. Meetings of the Council
3. Standing Order
4. Disclosure of interest by members of the Council
5. Office of the Agency
6. Common Seal
7. Validity of Proceedings.

1. This Law may be cited as the Osun State Public Procurement Law, 2024.

*Citation*

2. (1) There is established a body to be known as the Osun State Public Procurement Agency.

*Establishment*

(2) The Agency shall:

(a) be a body corporate with perpetual succession and a common seal;

(b) have power to sue and be sued in its corporate capacity; and

(c) be capable of acquiring, holding or disposing any property, movable or immovable for the purpose of carrying out its functions under this Law.

3. (1) The Public Procurement Agency shall have a Governing Council (referred to in this Law as “the Council”)
  
- (2) The Governing Council shall consist of:
  - (a) A Commissioner in the State Executive Council who shall be the Chairman as nominated by the State Governor;
  - (b) A Member of the State Executive Council as nominated by the State Governor shall be the Vice Chairman;
  - (c) The Attorney-General and Commissioner for Justice or his representative, not below the rank of a Director;



- (d) Special Adviser to the Governor on Economic Planning;
- (e) Six (6) members from the public, who shall be of unquestionable character and shall serve on the Council on a part-time basis to be appointed by the Governor subject to the confirmation by the State House of Assembly from the following organizations:
  - i. Chartered Institute of Purchasing and Supply Management of Nigeria;
  - ii. Nigerian Bar Association;

- iii. Nigerian Association of Chambers of Commerce Industry, Mines and Agriculture;
  - iv. Nigerian Society of Engineers;
  - v. Civil Society Organization; and
  - vi. The Media;
- (f) the General Manager of the Agency who shall also be the Secretary to the Council.

4. A member of the Council being:
- (a) an appointee of the State Government, shall hold office for a period he remains so appointed and no more;
  - (b) the General Manager of the Agency shall hold office in line with public service rules

*Appointment  
of Council  
Members.*

as may be specified in his letter of appointment.

5. The powers of the Council shall be to:

*Powers of the  
Governing  
Council.*

- (a) consider, review, amend and/or approve prior monetary thresholds for the application of the provisions of this Law by procuring entities;
- (b) consider and approve policies on Public Procurement;
- (c) make recommendations in respect of any Procurement guidelines or regulations to be made pursuant to the provisions of this Law;
- (d) receive and forward to the Osun State House of Assembly for approval, the

audited accounts of the Osun  
Public Procurement Agency

- (e) approve changes to the procurement process in line within modern technology; and
- (f) give such other directives and perform such other functions not being inconsistent with the provisions of this Law, as may be necessary to achieve the objectives of this Law.

- 6. (1) The members of the Council shall be appointed by the Governor and shall hold Office for a period of three (3) years and may be re-appointed for one further term.

*Tenure of  
Office*

- (2) A member shall be removed from office if he has:
- (a) by reason of infirmity of the mind or body become incapable of discharging his duties;
  - (b) been convicted of an offence which involves moral turpitude; and
  - (c) been involved in any act considered to be inimical to the interest of the Agency or the State.

(3) Notwithstanding the provisions of this Section, the Governor may remove any member of the Council if he is satisfied that it is in the public interest to do so.

7. Members of the Council shall be paid such remunerations and allowances as may be

*Remuneration  
and Allowance  
of the Council*

recommended by the Governor subject to approval by the Osun State House of Assembly.

8. The supplementary provisions set out in the Schedule to this Law shall have effect with respect to the proceedings of the Council and the other matters contained in it.

*Proceeding of the Council.*

9. The objectives of the Agency are:
- (a) harmonization of existing governing policies and practices on Public Procurement and ensuring probity, accountability and transparency in the procurement process;
  - (b) the establishment of pricing standards and benchmarks;
  - (c) to ensure the application of fair, competitive, transparent, value-for-money standards

*Objectives of the Agency.*

and practices for the procurement and disposal of public assets and services;

- (d) the attainment of transparency, competitiveness, cost effectiveness and professionalism in the public sector procurement system;
- (e) to create ample opportunities for the citizenry particularly, small and medium scale enterprises to participate in the economic opportunities and benefits of public procurement;
- (f) to create a cost and time efficient and effective adjudicatory mechanism for the resolution of complaints arising from public procurement process in the

State and its Local Governments filed by procuring entities bidders and the general Public: and

- (g) to attain transparency, competitiveness, professionalism and guarantee integrity and public trust in the public procurement procedure.

10. The Agency shall:

1. formulate the general policies and guidelines relating to public sector procurement for the approval of the Council;
2. publicise the provisions of this Law;
3. subject to thresholds as maybe set by the council, certify all State procurement

*Functions of the Agency*



prior to, during and after the award of any contract;

4. supervise the implementation of establishment procurement policies;
5. monitor the prices of tendered items and keep a database of standard prices;
6. produce and maintain a procurement journal;
7. publish the details of major contracts in the State Procurement Journal;
8. publish paper and electronic editions of the State Procurement Journal and maintain an archival system for the State Procurement Journal;

9. maintain a database of the particulars and classification, categorization of contractors and service providers, collate and maintain in an archival system, all procurement plans and information;
10. undertake procurement research and surveys;
11. organize trainings and development programmes for procurement professionals;
12. periodically appraise the socio-economic effect of the policies on procurement and advise the Council accordingly;
13. prepare and update standard bidding and contract documents;

14. prevent fraudulent and unfair procurement and where necessary apply administrative sanctions;
15. review the procurement and award of contract procedures of every entity to which this Law applies;
16. perform procurement audits and submit report to the House of Assembly bi-annually;
17. introduce, develop, update and maintain related database and technology;
18. establish a single internet portal that shall subject to Section 24(12) of this Law, serve as a primary and definitive source of all information on government

procurement containing and displaying all public sector procurement information at all times; and

19. coordinate relevant training programmes to build institutional capacity.

11. (1) The Agency shall:
- (a) formulate the General Policies and guidelines relating to Public Sector Procurement for approval of the Council;
  - (b) enforce the monetary and prior review thresholds set by the Council for the application of the provisions of this Law by the procuring entities;

*Power of  
the Agency*

- (c) subject to paragraph (b) of this Sub-Section, issue certificate of compliance for contract award within the prior threshold review for all procurement within the purview of this Law;
- (d) from time to time stipulate to all procuring entities, the procedures and documentation prerequisite for the issuance of Certificate of Compliance under this Law;
- (e) where a reason exists:
  - (i) cause to be inspected or reviewed any procurement transaction to ensure compliance with

- the provision of this Law; and
  - (ii) review and determine whether any procuring entity has violated any provision of this Law.
- (f) debar any supplier, contractor or service provider that contravenes any provision of this Law and regulation made pursuant to this Law;
- (g) maintain a database of contractors and service providers and to the exclusion of all procuring entities, prescribe categorizations for the companies on the register;

- (h) maintain a list of firms and persons that have been barred from participating in the public procurement activities and publish them in the State Procurement Journal;
- (i) call for information, documents, records and reports in respect of any aspect of any procurement proceeding where a breach, wrongdoing, default, mismanagement or collusion has been alleged, reported or proved against a procuring entity or service provider;
- (j) recommend to the Council, where there are persistent or

serious breach(es) of this Law, or regulations or guidelines made under this Law for:

- (i) the suspension of Officers concerned with the procurement or disposal proceeding in issue;
- ii. the replacement of the head or any of the members of the procuring or Disposal Unit of any entity or the Chairperson of the Procurement Committee as the case may be;
- iii. the discipline of the Accounting Officer of any Procuring entity;



- iv. temporary transfer of the procuring and disposal function of a procuring and disposing entity to a third party procurement Agency or consultant; or
  - v. any other sanction that the Agency may consider appropriate.
- (k) call for the production of books of account, plans, documents, and examine persons or parties in connection with any procurement proceeding;
  - (l) act upon complaints in accordance with the

procedures set out in this Law;

- (m) nullify the whole or part of any procurement proceeding or award which is in contravention of this Law; and
- (n) do such other things as are necessary, for the efficient performance of its functions under this Law.

(2) The Agency shall provide Secretariat services to the Council.

(3) The Agency shall, subject to the approval of the Council, have power to:

- (a) enter into contract or partnership with any company, firm or person which in its

opinion will facilitate the discharge of its functions;

- (b) request for and obtain from any procurement entity information's including reports, memoranda, audited accounts and others under this Law; and
- (c) liaise with relevant bodies or institutions, n a t i o n a l o r international for effective performance of its functions under this Law.

12. (a) The Agency shall establish and maintain a fund from which all expenditure incurred by the Agency shall be defrayed.

*Funding*

- (i) There shall be credited to the fund, all monies

appropriated from time to time to the Agency by the Osun State House of Assembly;

- (b) The Agency may specify the manner in which assets or funds of the Agency are to be held, and regulate the payment into and out of the fund.
- (c) The Agency shall require the keeping of proper accounts and records of the fund in such form(s) as may be specified in the Regulations to this Law.
- (d) The Agency may from time to time apply proceeds of the fund for:
  - (i) t h e c o s t o f administration of the Agency;

- (ii) the payment of salaries, fees and other remuneration of staff of the Agency or experts or professionals appointed by the Agency;
- (iii) the maintenance of any property acquired by or vested in the Agency; and
- (iv) any expenditure connected with all or any of the functions of the Agency under this Law.

13. (1) The Governor shall appoint for the Agency, a General Manager who shall also function as the Secretary to the Council.

*The General  
Manager/  
Secretary to  
the Council*

(2) The General Manager shall be:

- (a) the Chief Executive and Accounting Officer of the Agency;
  - (b) responsible for the execution of the policy and day-to-day administration of the affairs of the Agency; and
- (3) The General Manager shall hold office in line with Public Service rules as may be specified in his Letter of Appointment.
- (4) Without prejudice to the provisions of sub-section (3) of this section, the General Manager of the Agency may be removed from office at the instance of the Governor, on the basis of gross misconduct, financial impropriety, fraud and manifest incompetence.

14. (1) There shall be a Legal Adviser for the Agency who shall be a State Counsel not below Grade Level 12, seconded from the Ministry of Justice, and shall be responsible to the General Manager for the discharge of his functions.
- (2) The Legal Adviser shall generally perform all other duties affecting the Agency as may be assigned to him by the General Manager.
- (3) The Agency may from time to time engage such other officers as are deemed necessary for proper execution of its functions under the provisions of this Law.

15. The Agency shall be remunerated in line with the conditions of the civil service of the State. *Remuneration of the Agency*
16. (1) The Agency shall have power to establish Departments and Units as may be necessary or required for the effective organisation and execution of its functions. *Departments of the Agency*
- (2) Notwithstanding, sub-section 1 of this section, the Agency shall have the following directorates;
- (a) Administration;
  - (b) Finance & Accounts;
  - (c) Technical Services;
  - (d) Budget, Planning, Research and Statistics; and
  - (e) Supplies.
17. (1) The Agency shall be regulated in line with the State Civil Service Rules and Regulations. *Staff Regulations*



- (2) The appointment, promotion and disciplinary control (including dismissal) shall be in line with the condition of service in the Civil Service of the State.
- (3) Staff of the Agency shall be entitled to pension and other retirement benefits obtainable in the State Civil Service.
- (4) Subject to the Pension Law, the terms and conditions of service (including remuneration, allowances, benefits and pensions) of officers and staffs of the Agency shall be as determined by the condition of service in the Civil Service of the State.
- (5) Without prejudice to the generality of the above, the Council shall have power to

appoint either on transfer or on secondment from the Public Service Office in the State, such number of staffs as may be required to assist the Agency in the discharge of any of its functions under this Law and shall be remunerated (including allowances) as the Council may consider appropriate.

18. The Agency may, with the approval of the Council, make regulations for the proper implementation and enforcement of the provisions of this Law including all or any of the following matters:

*Other staff of  
the Agency*

- (a) the structure and contents of Annual Procurement Plans;
- (b) the standard and content of all bid solicitation documents;

- (c) the standard and content of all procurement contracts;
- (d) the use of any procurement method;
- (e) fees chargeable by any procuring entity for matters relating to public procurements; and
- (f) the prevention and detection by the Agency of any act amounting to an infringement on the provisions of this Law and its Regulations.

19. (1) Subject to the provisions of this Law, no suit shall be commenced against the Agency before the expiration of thirty (30) days after written notice of intention to commence such suit has

*Legal  
Proceedings*

been served upon the Agency by the intending claimant or his agent and the notice shall clearly state:

- (a) the cause of action;
- (b) the particulars of claim;
- (c) the name and address of Legal Practitioner(s) of the intending claimant, if any; and
- (d) the relief(s) sought.

(2) The General Manager, Officers, Employees or Agents of the Agency shall not be liable for any act or omission done in exercise of their office or any function or power conferred by this Law.

20. A notice, summons or other documents required or authorized to be served upon the Agency under the provisions of this Law or any other enactment may be served by delivering it to the General Manager

*Service of Document*

or sending it by registered post and addressed to the General Manager at the principal office of the Agency.

21. (1) The Agency shall prepare and submit a comprehensive Quarterly Report on all procurement activities carried out by all procuring entities within the purview of this Law to the Osun State House of Assembly.

*Assessment  
Report*

(2) The Quarterly Report shall give an accurate account of the conduct of all capital procurement carried out by procuring entities within the purview of this Law.

22. The Agency shall operate an account with a bank or banks in the State and the signatories to the account shall be that of the General Manager, the Heads of Finance and Accounts as well as Administration.

*Bank Account*

23. (1) The Agency shall keep proper account of all its expenditure and revenue and shall cause its account to be audited, not later than six (6) months after the end of each financial year, by External Auditors appointed by the Auditor-General of the State.

(2) The Agency shall, within six (6) months after the end of each financial year, furnish the House of Assembly with a copy of its Audited Account along with a report of the State of Affairs of the Agency for the year being reported.

24. (1) Subject to the exceptions under this Law, all procurement carried out by any procuring entity shall be governed by the following rules:

- (a) open competitive bidding using clearly defined criteria, and offering to every interested bidder equal information and opportunities to offer the works, goods and services needed;
- (b) promotion of competition, economy, efficiency and equal opportunities to all parties who are eligible and qualified to participate in public contracts;
- (c) simple, sustainable standard with uniform application to all government procurement and shall be adaptable to advancement in public administration and modern technology;

- (d) executing in an effective, efficient, transparent, timely, equitable manner to ensure accountability which shall conform with the provisions of this Law and its Regulations with the aim of achieving value for money and fullness of purpose;
- (e) a system of accountability where public officers and persons involved directly or indirectly in the procurement process or its implementation are when warranted by circumstances, to be investigated and held liable for their actions;



- (f) public monitoring of the procurement process and the implementation of contracts awarded to ensure that all public contracts are awarded pursuant to the provisions of this Law and its Regulations, and that all public contracts are performed strictly according to specifications; and
- (g) procurement plans to be supported by prior budgetary appropriation and no procurement proceeding shall be formalized until the procuring entity has ensured that funds are budgeted and appropriated to meet the obligations.

- (2) All regulations, procedures and timelines to be prescribed pursuant to this Law and specified by the Agency from time to time shall always conform to the provisions of paragraphs (a) - (g) of sub-section (1).
  
- (3) Where the Agency has set prior review or monetary benchmark pursuant to this Law, no funds shall be disbursed from the State Treasury or any Bank Account of any procuring entity for any procurement falling above the set benchmark.
  
- (4) (a) A supplier, contractor or service provider may be a natural person, a legal person or a natural/legal person.

Suppliers, contractors or service providers acting jointly are jointly and severally liable for all obligations and responsibilities arising from this Law and the non-performance or improper performance of any contract awarded pursuant to this Law.

- (b) The Agency shall make a Regulation that shall limit or classify the volume or size of Contracts, Supplies or Services that can be awarded to natural persons and others that are not incorporated Companies under the Company and Allied Matters Act, 2020 or

other enabling laws to that effect.

- (5) All bidders in addition, to requirements contained in any solicitation document shall:
- (a) possess the following:
    - (i) professional and technical qualifications to carry out particular procurement;
    - (ii) financial capacity;
    - (iii) equipment and other relevant infrastructure;
    - (iv) personnel to perform the obligations of the procurement contract; and
    - (v) possess the legal capacity to enter

i n t o t h e  
p r o c u r e m e n t  
c o n t r a c t ;

- (b) not be in receivership, the subject of any form of insolvency or bankruptcy proceedings or the subject of any form of winding-up petition or proceedings;
- (c) have fulfilled all its obligations to pay taxes, pensions and social security contributions; and
- (d) not have directors who have been convicted in any country for any criminal offence relating to fraud or financial impropriety or criminal misrepresentation or

falsification of facts  
relating to any matter.

- (6) The Agency or any procuring entity may require a bidder to provide documentary evidence or other evidence or other information it considers necessary as proof that the bidder is qualified in accordance with the provisions of this Law and for this purpose any such requirement shall apply equally to all bidders.
  
- (7) A bid or a tender shall be excluded from any particular procurement proceeding if:
  - (a) there is verifiable evidence that any supplier, contractor or service provider has

given or promised a gift of money or any tangible item or has promised, offered or given employment or any other benefit, any item or service that can be quantified in monetary terms to a current or former employee of a procuring entity or the Agency in an attempt to influence any action, decision making or any procurement activity;

- (b) a supplier, contractor or service provider during the last three (3) years prior to the commencement of the procurement proceeding in issue, failed to perform or to

provide due care in the performance of any public procurement;

- (c) the bidder is in receivership or is the subject of any type of insolvency proceedings or if being a private company under the Companies and Allied Matters Act, 2020 is controlled by a person or persons who are subject to any bankruptcy proceedings or who have been declared bankrupt and or have made any compromises with their creditor within two (2) calendar years prior to the initiation of the procurement proceeding;



- (d) the bidder is in arrears regarding payment of due taxes, charges, pensions or social insurance contributions, unless such bidders have obtained a lawful permit with respect to allowance or deference of such outstanding payment in installments;
- (e) the bidder has been convicted for a crime committed in connection with a procurement proceeding, or any other crime committed to gain financial profit;
- (f) the bidder has in its management any person that has been

convicted for a crime committed in connection with a procurement proceeding, or other crime committed to gain financial profit; and

- (g) the bidder fails to submit a statement regarding its domination or subsidiary relationship with respect to other parties to the proceedings and persons acting on behalf of the procuring entity participating in same proceeding or who remain in subordinate relationship with other participants to the proceeding.

- (8) (a) Where a bid and or tender is excluded under the provision of subsections (6) and (7) (a - g) of this section, the Agency shall inform the bidder in writing the grounds for the exclusion of the bid or tender from public procurement.
- (b) A procuring entity shall keep a record of the proceeding in a manner prescribed by the Agency.
- (9) All contract prices shall be considered as fixed, and therefore not subject to any upward variation during the contract implementation, except under extraordinary circumstances and only upon

prior approval of the Agency which shall from time to time stipulate by regulation, the basis for allowing or computing the quantum of such variations.

(10) All communications and documents issued by procuring entities and the Agency shall be in English Language .

(11) All communications regarding any matter deriving from this Law or proceedings of public procurement shall be in writing or such other form as may be stipulated by the Agency.

(12) Every procuring entity shall maintain both file and electronic records of all

procurement proceedings made within each financial year. The procurement records shall be maintained for a period of ten (10) years from the date of the award.

- (13) Copies of all procurement records shall be forwarded to the Agency not later than three (3) months after the end of the financial year and shall include:
- (a) information identifying the procuring entity and the contractors;
  - (b) the date of the contract award;
  - (c) the value of the contract; and
  - (d) the detailed records of the procurement proceedings.

- (14) All unclassified procurement records shall be open to inspection by the public at the cost of copying and certifying the documents in addition to an administrative charge as may be prescribed from time to time by the Agency.
  
- (15) Criteria stipulated as the basis upon which suppliers or contractors would be evaluated shall not be changed in the course of any procurement proceeding.
  
- (16) The burden of proving fulfillment of the requirement for participation in any procurement proceeding shall lie on the supplier or contractor.
  
- (17) A contract shall be awarded to the lowest cost evaluated

and qualified bidder from the bidders substantially responsive to the bid solicitation.

- (18) Notwithstanding sub-section (17) of this section, the Agency may refuse to endorse the award of a contract for public procurement on the grounds that the price is manifestly excessive or unreasonably below the predetermined price or that a procurement proceeding has been conducted in a manner that violates the provisions of this Law.
- (19) Pursuant to sub-section (18) of this section, the Agency may direct that the procurement proceedings be entirely cancelled or that the procuring entity conduct a re-

tender amongst the bidders substantially responsive to the initial bid solicitation based only on the price.

- (20) A procuring entity shall not disclose any information relating to the examination and evaluation of bids, including prequalification, submissions and actual contents of the tender proposals or quotations other than in the summary form stating the evaluation and comparison of tender proposals or quotations received until the successful bidder is notified of the award.
- (21) The Accounting Officer of an entity and any officer to whom responsibility is delegated is responsible and



accountable for any action taken or omitted to be taken either in compliance with or in contravention of the provisions of this Law or its Regulations.

- (22) The Accounting Officer of an entity shall ensure that the provisions of this Law and the Regulations made under are complied with, and approval by the approving authority shall not absolve the Accounting Officer from accountability for anything done in contravention of the provisions of this Law or its Regulations.
- (23) Procurement and disposal decisions of a procuring entity shall be taken in strict adherence to the provisions of this Law and any

Regulations made from time to time by the Agency.

- (24) Any person who has been engaged in preparing for a procurement or part of the proceedings shall not bid for the procurement in question or any part of it either as main contractor or sub-contractor and may not cooperate in any manner with bidders in the course of preparing their tenders.
  
- (25) A procuring entity shall not request or stipulate that a bidder should engage the services of a particular sub-contractor as a requirement for participating in any procurement proceeding.
  
- (26) All procurement contracts shall contain provisions for

Alternative Dispute Resolution as the primary form of Dispute Resolution.

- (27) The values in procurement documents shall be stated in Nigerian currency and where stated in foreign currency shall be converted to Nigerian currency using the prevailing rate of the Central Bank of Nigeria valid on the day of opening the tender.

25. All procurement contracts shall contain warranties for durability of goods, exercise of requisite skills in service provision and use of genuine materials and inputs in execution.

*Warranties*

26. (1) A procuring entity within the provisions of this Law shall establish a Public Procurement Office whose functions shall be to:

*Procurement Office*

- (a) initiate the entity's procurement process;
- (b) carry out appropriate market and statistical surveys and prepare analysis of cost implication of a proposed procurement;
- (c) aggregate its requirement, within and between procuring entities to obtain economical and reduce procurement cost;
- (d) conduct pre-qualification exercise for suppliers, contractors or consultants based on requisite expression of interest;
- (e) develop technical specifications;
- (f) conduct pre-bid conferences when necessary;

- (g) ensure that the advertisement and publications in solicitation for bids are in conformity with the provisions of this Law and Regulations as may be issued from time to time;
- (h) prepare bid documents;
- (i) issue bid documents;
- (j) supervise the development of all tenders;
- (k) organize communications with bidders;
- (l) issue receipts and keep bids in safe custody until opening;
- (m) receive and evaluate any bids received in response to solicitation;

- (n) maintain procurement records; and
- (o) evaluate expression of interest by suppliers, contractors, or consultants and forward lists of qualified submissions to the Agency.

(2) The procuring entity shall notify the Agency of the list of qualified submissions and the preferred mandate.

(3) The procuring entity shall award a procurement contract after the Agency has issued a Certificate of Compliance. i.e “No objection Certificate”

27. Subject to the monetary and prior review thresholds for procurements in this Law as may from time to time

*Approving  
Authority*

be determined by the Council, the following shall be the Approving Authority for the conduct of public procurement:

- (a) in the case of a government Agency, Parastatal or Corporation, a Procurement Committee;
- (b) in the case of a ministry or extra-ministerial entity, the Ministerial Procurement Committee; and
- (c) all contracts irrespective of value shall be approved in line with the provisions set in (a) and (b) above.

28. Subject to regulations as may from time to time be issued by the Agency, a procuring entity shall plan its procurement by:

- (a) preparing needs assessment and evaluation;

*Procurement  
Planning*

- (b) identifying the goods, works or services required;
- (c) carrying out appropriate market and statistical surveys and on that basis prepare an analysis of the cost implication of the proposed procurement;
- (d) aggregating its requirements whenever possible, both within the procuring entity and between procuring entities, to obtain economy of scale and reduce procurement cost;
- (e) integrating its procurement expenditure into its yearly budget;
- (f) ensuring that no reduction of values or splitting of procurements is carried out



such as to evade the use of the appropriate procurement method; and

- (g) ensuring that the procurement entity functions stipulated in this section shall be carried out by a Procurement Planning Committee.

29. Subject to regulations as may from time to time be issued by the Agency, a procuring entity shall implement its procurement plans as follows:

*Procurement  
Implementation*

- (a) solicit/advertise for bids in adherence to this Law and guideline as may be issued by the Agency from time to time;
- (b) invite as an observer, at least a non-governmental organization working in

transparency, accountability and anticorruption areas, and the observer shall not intervene in the procurement process but shall have the right to submit their observation, report to the Agency and any other relevant body including their own organizations or association;

- (c) receive, evaluate and make a selection of the bids received in adherence to this Law and guidelines as may be issued by the Agency from time to time;
- (d) obtain approval of the approving authority before making an award;
- e. debrief the bid losers on request;
- f. resolve complaints/disputes if any;

- g. obtain and confirm the validity of any performance guarantee;
- h. obtain a Contract Award Certificate from the Agency within the prior review threshold as stipulated in section 11© and (d) of this Law; and
- i. announce and publicize the award in the format stipulated by this Law and guidelines as may be issued by the Agency from time to time.

30. (1) The Accounting Officer of a procuring entity shall be the person charged with the supervision of the conduct of all procurement processes. In the case of Ministries, the Permanent Secretary and in the case of extra-ministerial departments and corporations, the Executive

*Accounting  
Officer*

Secretary, General Manager or Officer of coordinate responsibility.

(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:

(i) ensuring compliance with the provisions of this Law by his entity and liable in person for the breach or contravention of this 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;
- (ii) constituting the Procurement Planning Committee and its decisions;
  - (iii) ensuring that adequate appropriation is provided specifically for the procurement in the State Budget;
  - (iv) integrating his entity's procurement expenditure into its yearly budget;
  - (v) ensuring that no reduction of values or splitting of procurements is carried out such as to

evade the use of the appropriate procurement method or guidelines;

(vi) constituting the Evaluations Committee; and

(vii) liaising with the Agency to ensure the implementation of its regulations.

31. (1) For every financial year, each procuring entity shall establish a Procurement Planning Committee.

*Establishment and composition of Procurement Planning committee*

(2) The Procurement Planning Committee shall comprise the following members:

(i) the Accounting Officer of the procuring entity or his representative who shall be the Chairman of the Committee;

- (ii) a representative of the procurement unit of the procuring entity who shall be the Secretary;
- (iii) a representative of the Unit directly in requirement of the procurement;
- (vi) a representative of the financial unit of the procuring entity;
- (v) a representative of the planning, research and statistics unit of the procuring entity;
- (vi) technical personnel of the procuring entity with expertise in the subject matter for each particular procurement; and
- (vii) a representative of the legal Unit of the procuring entity if any.

32. (1) It is hereby established by this Law in each procuring entity, a tender opening committee (hereinafter referred to as “The Tender Opening Committee”)
- (2) The Tender Opening Committee shall consist of:
- (i) A Chairman who shall be the Accounting Officer of the procuring entity;
  - (ii) A Secretary who shall be the Director of Administration and Supplies;
  - (iii) All Directors in the Ministry/Agency where the Tender opening is to be carried out as members;
  - (iv) Representatives from both the Ministry of Economic Planning Budget and



Development and  
Ministry of Finance as  
members; and

- (v) A Representative from  
the Public Procurement  
Agency as a Member.

33. (1) A procurement committee is  
hereby established by this  
Law in each procuring entity.

*Procurement  
Committee*

(2) The procurement Committee  
shall consist of:

- (i) A Chairman who shall be  
the Hon. Commissioner  
/ C h a i r m a n o f  
Commission/Board/  
Special Adviser;
- (ii) The Permanent  
Secretary(ies)/Chief  
Executive Officer as  
Member(s)
- (iii) The Director of  
Administration and  
Supplies as a Member;

- (iv) A l l H e a d s o f Department/Directorates as Members;
  - (v) A relevant professional as representative of the Agency as a Secretary;
  - (vi) A representative of the Ministry of Economic Planning, Budget and Development and the Ministry of Finance as Members; and
  - (vii) A representative from the Public Procurement Agency as a Member
- (3) Subject to the approval of the Council, the Agency shall from time to time prescribe guidelines for the Procurement Committee.
- (4) The Procurement Committee shall be responsible for the

award of procurements of goods, works and services within the threshold set in the regulations.

- (5) In all cases where there is a need for pre-qualification, the Chairman of the Procurement Committee shall constitute a technical evaluation sub-committee of the Procurement Committee charged with the responsibility for the evaluation of bids which shall be made up of professional staff of the procuring entity and the Secretary of the Procurement Committee.
- (6) The decision of the Procurement Committee shall be communicated to the Agency for review and further

processing to the approving authority.

34. (1) The procurement of works, goods and services by all procuring entities shall be conducted by Open Competitive Bidding except it is otherwise provided by this Law.

*Open  
Competitive  
Bidding*

(2) Any reference to Open Competitive Bidding in this Law means the process by which a procuring entity based on previously defined criteria, effect public procurement by offering to every interested bidder, equal simultaneous information and opportunity to offer the works, goods and services needed.

- (3) No negotiations unless otherwise provided for by this Law shall be conducted with suppliers, contractors or service providers and the winning bid shall be that which is:
- (i) in the case of goods and works, the lowest cost evaluated responsive bid from the bidders who respond to the bid solicitation; and
  - ii. in the case of services, the highest rated evaluated bid from the bidders who respond to the bid solicitation.
- (4) The provisions of this Law on open competitive bidding shall apply to procurement of goods, works and services with monetary value above

One Billion Naira  
(N1,000,000,000.00) only.

- (5) The Agency shall make recommendation applicable to procurement of goods, works and services with monetary value below One Billion Naira (N1,000,000,000.00) only.

35. (1) Invitations to bid may be either by way of National Competitive Bidding (NCB) or International Competitive Bidding (ICB) and the Agency shall from time to time set the monetary thresholds for which procurements shall fall under either system.

*Invitation to Bid*

- (2) In the case of goods, works and services valued under International Competitive Bidding (ICB), the invitation for bids shall be advertised in

at least two (2) national newspapers, one (1) relevant internationally recognized publication, any official website of the procuring entity, the Agency and the State Procurement Journal not less than six weeks before the deadline for submission of the bids for the goods, works and services.

- (3) In the case of goods, works and services under National Competitive Bidding (NCB), the invitation for bids shall be advertised on the Notice Board of the procuring entity, website of the Agency and the State Procurement Journal not less than four (4) weeks before the deadline for submission of the bids for the goods, works and services.
- (4) The Agency shall issue

guidelines for the advertisement/publication of Invitations to Bid.

36. (1) Where a procuring entity has made a decision with respect to the minimum qualifications of suppliers, contractors or service providers by requesting interested persons to submit applications to pre-qualify, it shall set out precise criteria upon which it seeks to give consideration to the applications and in reaching a decision as to whether supplier, contractor or service provider qualifies, shall apply only the criteria set out in the prequalification documents and no more.

*Prequalification  
of Bidders*

- (2) Procuring entities shall



supply a set of pre-qualification documents to each supplier, contractor or service provider that requests for them; and the price that a procuring entity may charge for the pre-qualification documents shall reflect only the cost of printing and delivery.

- (3) The Agency shall make Regulations stipulating the guidelines for the pre-qualification of bidders in any public procurement process.

37. (1) Bid documentation shall be prepared by procuring entities based on the standard forms and manuals issued under regulation by the Agency. The bidding documents shall include the following:

- (a) Approved budget for

*Bid  
Documentation*

- the contract;
- (b) instruction to bidders, including criteria for eligibility, bid evaluation and as well as the date, time and place of the pre-bid Conference (where applicable), submission of bids and opening of bids;
  - (c) terms of reference;
  - (d) eligibility requirement;
  - (e) description of the products, services or works concerned;
  - (f) plans and technical specification;
  - (g) form of bid, price form, and list of goods or Law of Quantities;
  - (h) delivery time or completion schedule;
  - (l) form and amount of bid security; and
  - (j) form of contract and

general and special  
conditions of contract.

- (2) Procuring entities may require additional document or specifications necessary to complete the information required for the bidders to prepare and submit their respective bids.

38. (1) Subject to the monetary and prior review threshold as may be set by the Agency, all procurements valued in excess of the sums prescribed by the Agency shall require a bid security in an amount not less than 1% of the bid price by way of a bank guarantee issued by a reputable bank acceptable to the procuring entity or an insurance bond issued by an insurance company

*Bid Security*

acceptable to the Agency.

- (2) The Agency shall from time to time specify the principal terms and conditions of bid security to be posted by bidders.

39. (1) All bids in response to an invitation to Open Competitive Bidding shall be signed by an official authorized to bind the bidder to a contract and placed in sealed envelopes.

*Submission of  
Bids*

- (2) All bids shall have two (2) components, namely the technical and financial components which should be in separate sealed envelopes, and which shall be submitted simultaneously.

- (3) All submitted bids shall

be deposited and kept in a secured tamper-proof Bid Box, in the office of the Agency.

- (4) All submitted bids must be in English Language.
- (5) The procuring entity shall be issued a receipt showing the date and time the bid was received.
- (6) Any bid received after deadline for the submission of bids shall not be opened and must be returned to the supplier, contractor or service provider which submitted it.
- (7) No communication shall take place between procuring entities and any supplier or contractor after the publication of a bid

solicitation other than as provided in this Law.

40. There shall be a failure of bidding if:

- (1)
  - (a) no bids are received;
  - (b) no bid qualified as the lowest cost evaluated responsive bid or highest rated responsive bid; or
  - (c) whenever the bidder with the highest rated or lowest calculated responsive bid refuses, without justifiable cause to accept the award of the contract, as the case may be.
  
- (2)
  - (a) The contract shall be re-advertised and re-bid at the occurrence of any of the instance stated in subsection (1) of this section.
  - (b) the procuring entity

*Failure of  
Bidding*

shall observe the same process and set the new periods according to the same rules followed during the first bidding. After the second failed bidding, however, the procuring entity may resort to an alternate method of procurement as provided by this Law.

41. A procuring entity may:

- (a) reject any bids at any time prior to the acceptance of a bid, without incurring any liability to the bidders; and
- (b) cancel the procurement proceedings in the public interest, without incurring any liability to the bidders.

*Rejection of  
Bids*

42. (1) The period of validity for a bid shall be the period specified in the tender documents.

(2) A procuring entity may

*Validity  
Period of  
Bids*

request supplier, contractor or service provider to extend the period of validity for an additional specified period of time.

- (3) A supplier, contractor or service provider may refuse the request for the extension of bid, in which case the effectiveness of its bid will terminate upon the expiration of the un-extended period of effectiveness.
- (4) A supplier, contractor or service provider may modify or withdraw its bid prior to the deadline for the submission of bids.
- (5) The modification or notice of withdrawal is effective if it is received by the procurement entity before the deadline for



the submission of tenders.

43. All bids shall be submitted before the deadline or date specified in the tender documents or any extension of the deadline for submission and the procuring entity shall:

*Bid Opening*

- (a) permit attendees to examine the envelopes in which the bids have been submitted to ascertain that the bids have not been tampered with;
- (b) cause all the bids to be opened in public, in the presence of the bidders or their representatives and any interested member of the public;
- (c) ensure that the bid opening takes place immediately following the deadline stipulated for the submission

of bids or any extension;

- (d) ensure that attendance is taken of all those present at the bid opening with their names and addresses and the organizations they represent to be recorded by the Secretary of the Procurement Committee; and
  
- (e) call-over to the hearing of all present, the name and address of each bidder, the total amount of each bid, and shall ensure that these details are recorded by the Secretary of the Procurement Committee or his delegate in the minutes of the bid opening.

44 A procurement entity shall disqualify

a bidder who submits documents containing false information or documents forged for purposes of qualification at any time, such disqualification shall be published in the State Official Gazette.

*Disqualification  
of Bids*

- 45 (1) Without prejudice to the provisions of this Law relating to advertisement of award of contract and to information to bidders, procurement entities shall not disclose information forwarded to them by bidders labelled as confidential, such information includes technical aspects, trade secrets and confidential information of bidders.

*Confidentiality  
of Bids*

- (2) Confidential information contained in any bid concerning commercial, financial or technical

information or trade secrets or know-how of a bidder shall not be disclosed to any person not officially concerned with the procurement process under any circumstances.

- (3) After the public opening of bids, no information relating to the examination, clarification and evaluation of bids and the deliberations of the contracting authority or the procurement Agency shall be disclosed to any bidder or any third party until the award decision is notified to the successful bidder.

- 46 (1) All bids shall be first examined to determine if they:
- (a) meet the minimum eligibility requirements stipulated in the bidding

*Examination  
of Bids*

- documents;
  - (b) have been duly signed;
  - (c) are substantially responsive to the bidding documents; and
  - (d) are generally in order.
- (2) A procuring entity may ask a supplier or a contractor for clarification of its bid submission in order to assist in the examination, evaluation and comparison of bids.
- (3) The following shall not be sought, offered or permitted:
- (a) changes in prices;
  - (b) changes of substance in a bid; and
  - (c) changes to make an unresponsive bid responsive.
- (4) Notwithstanding sub-section (3)

of this section, the procuring entity may correct purely arithmetical errors that are discovered during the examination of tenders.

- (5) The procuring entity shall give prompt notice of the corrections to the supplier or contractor that submitted the tender.
- (6) A major deviation shall result in a rejection of bid while a minor deviation shall be subject to clarification.
- (7) The following shall be considered as major deviations:
  - (a) with respect to a section in an offer:
    - (i) unacceptable sub-contracting;
    - (ii) unacceptable

time schedule if  
time is of  
essence;

(iii) unacceptable  
alternative  
design; and

(iv) unacceptable  
price adjustment.

(b) With respect to the  
status of the bidder;

i. the fact that the  
bidder is ineligible  
or not pre-  
qualified; and

ii. the fact that the  
bidder is  
uninvited;

(c) With respect to bid  
documents, an  
unsigned bid;

(d) With respect to time,

date and location for submission:

- (i) a bid received after the date and time for submission stipulated in the solicitation documents; and
- (ii) a bid submitted at the wrong location.

(8) In case of major deviations, bids may not be considered any further.

(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.

(10) Subject to any provision to



the contrary, the following shall be considered as minor deviations:

- (a) the use of codes;
- (b) the difference in standards;
- (c) the difference in materials;
- (d) alternative design
- (e) a l t e r n a t i v e workmanship;
- (f) modified liquidated damages;
- (g) omission in minor items;
- (h) d i s c o v e r y o f arithmetical errors;
- (i) sub-contracting that is u n c l e a r a n d questionable;
- (j) difference in methods of construction;
- (k) difference in final delivery date;
- (l) difference in delivery

- schedule;
  - (m) completion period where these are not of essence;
  - (n) non-compliance with some technical local regulation;
  - (o) payment terms; and
  - (p) any other condition that has little impact on the bid.
- (11) In any case 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:
- a. where the impact on the costs is major, it shall be regarded as major deviation: and
  - b. where the impact on

the costs is minor, it shall be regarded as a minor deviation.

- (12) In cases of minor deviations, written clarifications may be obtained from the supplier or contractor and, where applicable, an offer made for the correction of the minor deviation.
- (13) Where a supplier or contractor does not accept the correction of minor deviation, his bid shall be rejected.
- (14) At the stage of evaluation and comparison, all minor deviations shall be quantified in monetary terms.
- (15) For the rejection of a bid, a

written notice shall be given promptly to the supplier.

47. (1) For the evaluation and comparison of bids that have been adjudged as valid for the purposes of evaluation, no other method or criteria shall be used except those stipulated in the solicitation documents.

*Evaluation of  
Bids*

- (2) The objective of bid evaluation shall be:
- (i) in the case of goods and works to determine and select the lowest cost evaluated bidder from the bidder responsive to the bid solicitation; and
  - (ii) in the case of services, to determine the highest rated bidder from the bidders

r e s p o n s i v e t o  
the bid solicitation.

(3) The Agency shall issue Regulations stipulating the guidelines for the evaluation of bids.

48. (1) The successful bid shall be that submitted by the lowest cost evaluated bidder from the responsive bidders to the bid solicitation.

*Acceptance of  
Successful  
Bids*

(2) Notwithstanding the provision of sub- section (1) of this section and for the avoidance of doubt, the selected bidder needs not be the lowest cost evaluated bidder provided the procuring entity can show good grounds derived from the provisions of this Law to that effect.

(3) Notice of the success of a bid

shall immediately be communicated to the successful bidder.

- (4) Notwithstanding the provision of sub-section (3) of this section, where the procurement proceeding is with regard to a value for which approval should be sought from an approving authority, notice communicated to a successful bidder shall serve for notification purposes only and shall not howsoever be construed as a procurement award.

49. Where a procuring entity wishes to procure services for its needs which are precise and ascertainable:

- (a) it shall solicit expressions of interest or applications to prequalify to provide the

*Expressions of interest to provide services for procurement Award*

services by publishing a notice to that effect in at least two (2) national newspapers, the procurement journal and the Agency's notice Council; and

- (b) where the value of the services to be procured is less than One Million Naira (N1,000,000.00), or with the approval of the Agency, of such a low value that only local consultants would be interested, the procuring entity may without placing any notice request at least three (3) and not more than ten (10) consultants or service providers to make proposals for the provision of the services in a format stipulating:

- (i) a statement of

qualifications of the consultant to provide the service;

- (ii) a statement of understanding of the procuring entity's needs;
- (iii) the methodology for providing the service;
- (iv) the time frame for providing the service; and
- (v) the cost or fee for the service.

50. Without prejudice to the provisions of this Law, the period between the opening of bids and the award of contract shall not exceed three (3) months.

*Limitation of time for procurement Award*

51 (1) When a contract award procedure has been launched by publication of a procurement notice, it may

*Termination of Award procedure*



be terminated where:

- (a) a contract or framework agreement is concluded;
- (b) the award procedure is cancelled for one of the following reasons:
  - (i) no bids submitted within the specified final time limit;
  - (ii) none of the received bids are compliant;
  - (iii) all compliant bids contained prices substantially exceeding the procuring entity's budget;
    - (i) the number of the received compliant

bids is less than three (3) and does not ensure a genuine competition on the contract concerned;  
and

- (ii) the number of qualified candidates is less than three (3) and does not ensure a genuine competition on the envisaged contract.

a. the award procedure is cancelled

for other reasons beyond the procuring entity's control and unpredictable at the time of launching the award procedure.

(2) Where a contract award procedure is cancelled without the award of a contract or conclusion of a framework agreement, a cancellation notice shall be published in the State Official Gazette and the Procurement Portal.

52. (1) A procuring entity wishing to procure services for its needs may do so by requesting for proposals when it intends to enter into a contract for the purpose of research, experiment, study or development except where the contract includes the production of goods in

*Request for  
Proposals to  
Provide  
Services for  
unascertained  
needs*

quantities sufficient to establish their commercial viability or to recover research and development cost.

- (2) The procuring entities shall procure the services of consultants by soliciting for expressions of interest through publication of a notice to that effect in two (2) national newspapers, the procurement journal and in the Agency's notice boards.
  
- (3) A procuring entity may make direct requests to a limited number of consultants requesting proposals for the provision of a service if:
  - (a) the services are only available for not more than three (3) consultants;
  - (b) the time and cost

required to examine and evaluate a large number of proposals would be disproportionate to the value of the services to be performed, provided that it invites enough consultants to ensure transparent competition; or

- (c) it is in the interest of security or similar reason of confidentiality;

53. (1) Request for proposals shall include:

- (a) the name and address of the procurement entity;
- (b) a requirement that the proposals are to be prepared in English Language;
- (c) the manner, place and deadline for the submission of

*Contents of  
the Request  
for Proposals*

- proposals;
- (d) a statement to the effect that the procuring entity reserves the right to reject proposals;
- (e) the criteria and procedures for the evaluation of the qualifications of the consultants;
- (f) the requirements on documentary evidence or other information that shall be submitted by consultants to demonstrate their qualifications;
- (g) the nature and required characteristics of the services to be procured, including the location where the services are to be provided and the time when the services are

- to be provided;
- (h) whether the procuring entity is seeking proposals on various possible ways of meeting its needs;
  - (i) a requirement that the proposal price is to be expressed in Nigerian currency;
  - (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;
  - (k) whether the procedure to ascertain the successful proposal

shall be based on the lowest cost or quality and cost or a combination of the lowest cost, quality and criteria other than cost but stipulated in the request for proposals; and

(l) a short list to be made of only national consultants for consulting assignment, contract within a set benchmark in the procurement regulation provided that national consultants possess such requisite skills.

(2) The procuring entity shall provide the same information to every consultant requested to submit proposals.

54. (1) A consultant shall be allowed



to request for clarification on the request from the procuring entity and such request may be made within a reasonable time to be specified.

- (2) A procuring entity may whether on its initiative or as a result of a request for clarification by a consultant, modify the request for proposals by issuing an addendum at any time prior to the deadline for submission of proposals.
- (3) The addendum shall be communicated promptly before the deadline for the submission of proposals to the shortlisted consultants to whom the procuring entity has provided the request for

proposals and shall be binding on those consultants.

(4) If the procuring entity convenes a meeting of consultants, it shall prepare minutes of the meeting containing the issues submitted at the meeting for clarification of the request for proposal and its responses to those issues without identifying the sources of request for clarifications.

(5) The minutes shall be provided promptly before the deadline for submission of proposals to the consultants participating in the selection proceedings to enable them take the minutes into accounts in preparing their proposals.

55. (1) The procuring entity shall

allow sufficient time for the preparation and submission of the requested proposals but shall in no case give less than ten (10) days between the issue of the notice or request and the deadline for submission.

- (2) The technical and financial proposals shall be submitted simultaneously but in separate envelopes.
- (3) A proposal received after the deadline for submission of proposals shall be returned to the sender unopened.
- (4) Immediately after the deadline for submission of proposals, the technical proposals shall be opened for evaluation whilst the financial proposals shall

remain sealed and kept in a secure bid box until they are opened publicly.

- (5) The technical evaluation committee shall not have access to or insight to the financial proposals until the evaluations including any review by the Agency is concluded.

- 56. (1) The procuring entity shall establish criteria to evaluate the proposals and prescribe the relative weight to be accorded to each criterion and the manner in which they are to be applied in the evaluation of:

*Criteria for  
evaluation of  
Proposals*

- (a) the qualification, experience, reliability, professional and managerial competence of the

- consultant or service provider and of the personnel to be involved in providing the services;
- (b) the effectiveness of the proposal submitted by the consultant or service provider in meeting the needs of the procuring entity;
  - (c) the proposal price, including any ancillary or related cost;
  - (d) the extent of participation by local personnel, the economic development potential offered by the proposal including domestic investment or other business activity, the development of managerial, scientific

and operational skills  
and the counter trade  
arrangements offered  
by consultants or  
service providers; and  
(e) security considerations.

(2) A procuring entity may  
accord a margin of  
preference for domestic  
consultants or service  
providers which shall be  
calculated in accordance  
with the regulations and  
guidelines as issued from  
time to time by the Agency  
and shall be reflected in the  
record of the procurement  
proceedings.

57 (1) The procuring entity shall  
select the successful  
proposal by either choosing  
the proposal with:  
(i) the lowest evaluated

*General  
selection  
procedure.*

price or;

- (ii) the best combined evaluation in terms of the general criteria set out in the request for proposals and the price quoted.

(2) The procuring entity shall include in the record of procurement a statement of the grounds and circumstances on which it relied to select either of the procedures in sub-section (1) of this section.

(3) Nothing in this section shall prevent the procuring entity from resorting to the use of any impartial panel of experts to make the selection.

58 (1) Where the procuring entity

elects to choose the successful proposal based on technical and price factors, it shall establish a weight with respect to quality and technical price factors of the proposals in accordance with the criteria other than price as might have been set out in the request for proposals and rate each proposal in accordance with such criteria and the relative weight and manner of application of the criteria as stipulated in the request for proposals.

*Procedure for  
selection of  
proposal  
where price is  
a factor*

2. The procuring entity shall compare the prices of those proposals that have attained a rating at or above the benchmark.
3. The procuring entity shall



notify the consultants whose proposals did not meet the minimum qualifying mark or were non responsive to the invitation for proposals and terms of reference after the evaluation of quality is completed within a period of fourteen (14) working days after the decision has been taken by the procurement entity.

4. The name of the qualified consultants, the quality scores for the technical component of the proposal shall be read aloud and recorded alongside the price proposed by each consultant or service provider when the financial proposals are opened.
5. The procuring entity shall

prepare the minutes of public opening of financial proposal which shall be part of the evaluation report and shall retain the record.

6. The successful proposals shall be:
  - (a) the proposals with the best combined evaluation in terms of the criteria established under sub-section (1) of this section from the price in the case of quality and cost-based selection;
  - (b) the proposals with the lowest price in the case of least-cost selection; or
  - (c) the highest ranked technical proposal within the budget in the

case of fixed budget selection.

- (7) The consultants with the winning proposal shall be invited for negotiations, which shall focus mainly on the technical proposals.

59. The Agency shall maintain a register of awards, where the details of all procurement contracts awarded by the Agency shall be kept.

*Register of Awards*

60. (1) Subject to the approval of the Agency, a procuring entity may by reasons of economy, efficiency, special skills, experience and proven track record of a contractor or service provider over a period of time, initiate procurement by means of selective procurement if:
- (a) the goods, works or

*Selective Procurement*

services are available only from a limited number of suppliers or contractors; or

- (b) the time and cost required to examine and evaluate a large number of bids is disproportionate to the value of the goods, works or services to be procured; or
- (c) the procedure is used as an exception rather than norm.

(2) Where a procuring entity engages in selective procurement on the basis that:

- (a) the goods and services are available from a limited number of suppliers or contractors; it shall

- invite bids from only the suppliers and contractors who can provide the goods, works or services; and
- (b) the time and cost required to examine and evaluate a large number of bids is disproportionate to the value of the goods, works or services; it shall select in a non-discriminatory manner the number of suppliers or contractors to ensure effective competition.
- (3) The provisions of this Law regarding the open competitive bidding shall apply to selective bidding proceedings only to the extent of the variance by this

section.

61. (1) Generally, quotations shall be obtained from at least three (3) unrelated contractors or suppliers.

*Request for  
Quotation*

- (2) Each contractor or supplier from whom a quotation is requested shall:
- (a) be informed whether any factors other than the charges for the goods, works or services themselves, such as any applicable transportation and insurance charges, customs duties and taxes are to be included in the price; and
  - (b) give only one quotation and shall not be allowed to change or

vary the quotation.

(3) No negotiation shall take place between a procuring entity and a contractor or supplier with respect to a quotation.

(4) The procurement shall be awarded to the qualified contractor or supplier that gives lowest priced responsive quotation.

62. (1) The Procuring entity shall apply this Law for procurement that concerns security and may determine that single-source procurement is the most appropriate method of Procurement.

*Restricted  
Procurement*

(2) The Procuring entity may

procure the goods, works or services by inviting a proposal or price quotation from a single supplier or contractor.

- (3) The Procuring entity shall include in the record of procurement proceedings a statement of the grounds for its decision and the circumstances in justification of single source procurement.

63. (1) A procuring entity may carry out any direct procurement where:

*Direct  
Procurement*

- (a) goods, works and services are only available from a particular supplier or contractor, or if a particular supplier or contractor has



exclusive right in respect of the goods, works or services, and no reasonable alternative or substitute exists; or

- b. there is an urgent need for the goods, works or services and engaging in tender proceedings or any other method of procurement is impracticable due to unforeseeable circumstances giving rise to the urgency which is not the result of dilatory conduct on the part of the procuring entity; or
- c. owing to a catastrophic event, there is an urgent need for the

goods, works or services, making it impracticable to use other methods of procurement because of the time involved in using those methods; or

d. the project and funding is a contractor solicited procurement; or

e. it has procured goods, equipment, technology or services from a supplier or contractor and determines that:

(i) additional supplies need to be procured from that supplier or contractor because of

- standardization;
- (ii) there is a need for compatibility with existing goods equipment, technology or services, taking into account the effectiveness of the original procurement in meeting the needs of the procurement entity;
  - (iii) the limited size of the proposed procurement in relation to the original procurement provides justification; and
  - (iv) t h e

reasonableness of the price and the unsuitability of alternatives to the goods or services in question merits the decision.

- f. it seeks to enter into contract with the supplier or contractor for research, experiment, study or development, except where the contract includes the production of goods in quantities to establish commercial viability or recover research and development costs, or
- g. it may apply this Law for procurement that concerns security and

determine that direct procurement is the most appropriate method of procurement.

- (2) The procuring entity:
  - (a) may procure the goods, works or services by inviting a proposal or price quotation directly from a single supplier or contractor; and
  - (b) shall include in the record of procurement proceedings, a statement of the grounds for its decision and the circumstances in justification of the direct procurement.

64. (1) Subject to the approval of the

Agency, procuring entity may initiate emergency procurement where:

- (a) the State is either seriously threatened by or actually confronted with a disaster, catastrophe, war, insurrection or an Act of God; or
  
- (b) the condition or quality of goods, equipment, building or publicly owned capital goods may seriously deteriorate unless action is urgently taken to maintain them in their actual value or usefulness; or
  
- (c) a public project may be seriously delayed for

want of an item of a minor value.

- (2) In an emergency situation, a procuring entity may initiate emergency procurement of goods, works and services.
- (3) All emergency procurements shall be handled expeditiously having due regard to accountability.

65. (1) At any time the Governor may consider appropriate, the Agency shall design and set up a secure electronic portal to be known as the Osun Government Electronic Procurement System which shall be the primary source of information for all public procurement matters and opportunities within the purview of this Law and the regulations issued under this

*E-Procurement*

Law.

- (2) Subject to the provisions of this Law and the regulations thereto, it shall be lawful for any procuring entity to consider any or all of its bids by electronic auction and or simulation on its electronic portal, provided that the use of the electronic system shall be transparent, efficient, and economical.

66. (1) The procuring entity may grant a margin of preference in the evaluation of bids, when comparing bids from domestic bidders with those from foreign bidders or when comparing bids from domestic suppliers offering goods manufactured locally with those offering goods manufactured in a foreign

*Domestic  
Preferences.*



country.

- (2) Where the procuring entity intends to allow domestic preference, the bid document shall clearly indicate any preference to be granted to domestic suppliers and contractors and the criteria for eligibility for such preference.
  - (3) Margin of Preference may apply to bids under International competitive bidding.
  - (4) The Agency shall by Regulation from time to time set the limit and the formulae for computation of margins of preference and determine the contents of goods manufactured locally.
67. (1) Advance payment / Mobilization Fees of 30%

may be paid to a supplier, contractor, and service provider.

*Mobilization  
Fees/Advance  
Payments.*

- (2) In addition to any other regulations as may be prescribed by the Agency, a mobilization fee as stated in the award letter may be paid to a supplier or a contractor supported by the following:
  - (a) in the case of National Competitive Bidding ( N C B ) , a n unconditional Bank guarantee and/or insurance bond as may be stated in the letter of award; or
  - (b) in the case of International Competitive Bidding (ICB), an unconditional Bank guarantee issued by a banking institution

as may be stated in the letter of award.

- (3) 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.

68. (1) The provision of a payment Guarantee/ Performance Bond shall be a pre-condition for the award of any procurement contract upon which any mobilization fee is to paid.

*Performance  
Guarantees  
or Bonds.*

- (2) Prior to the signing of the contract, the successful

bidder may be required in the circumstances deemed necessary by the Agency as a further measure of guarantee for the faithful performance of the procurement contract and compliance with its obligation under the contract, to present a performance security in such form and amount as specified in the bid solicitation.

69. (1) Payment for the procurement of goods, works, and services shall be settled promptly and diligently.

*Interest on delayed payment.*

- (2) Any payment due for more than sixty (60) days from the date of the submission of the invoice, valuation certificate or confirmation or

authentication by the Ministry, Extra- Ministerial Office, Government Agencies, parastatals or corporations shall be deemed a delayed payment.

(3) All delayed payments shall attract interest at the rate specified in the contract document.

(4) All contracts shall include terms, specifying the penalty for late payment of more than sixty (60) days.

70. Every procuring entity shall keep a detailed record of all procurement activities and processes in a format as may be prescribed in the Regulations made by the Agency.

*Records of  
procurement  
Proceedings*

71. (1) The Agency may conduct an investigation into any matter

related to the conduct of procurement proceedings by a procuring entity, or the conclusion or operation of a procurement contract if it considers it necessary or desirable to prevent or detect a contravention of this Law.

- (2) The Agency may in the course of its investigation:
  - (i) at any time during normal office hours, enter the premises of procuring entity, bidder, supplier, contractor, or service provider concerned with the procurement proceedings under investigation;
  - (ii) require an officer, employee or agent of

- the procuring entity or bidder, supplier, contractor, or consultant to produce any book, record, account or document;
- (iii) search premises for any book, records account or documents;
- (iv) examine and make extracts from books, records, accounts or documents of any procuring entity, bidder, supplier, contractor, or consultant;
- (v) remove books, records, accounts or documents of the procuring entity, bidder, supplier, contractor or consultant for as long as may be necessary to examine them or make extracts from or copies

of them but the investigator shall give a detailed receipt for the books, records, accounts or documents removed;

(vi) require any officer, employee or agent of the procuring entity or bidder, supplier, contractor or consultant to explain an entry in their books, records, accounts or documents; and

(vii) provide the investigator with information concerning the management or activities of the procuring entity or bidders as may be reasonably required.

(3) The power of entry and search conferred by



subsection (2) (i) and (ii) of this section shall not be exercised except the Agency has first obtained an order of the State High Court without the necessity of putting the procuring entity or bidder, supplier, contractor or consultant concerned or the person in charge of the premises on notice.

- (4) The Agency shall, if satisfied that there has been a contravention of the provisions of this Law or any of its Regulation in relation to procurement proceedings or procurement contracts, take action to rectify the contravention which shall include recommending:

- (i) nullification of the  
p r o c u r e m e n t

- proceedings;
  - (ii) cancellation of the procurement contracts;
  - (iii) ratification of anything done in relation to the proceedings; or
  - (iv) a declaration consistent with any relevant provisions of this Law.
- (5) On completion of an investigation, the Agency shall send a summary of its findings and recommendations to the concerned procuring entity, bidder, supplier, contractor or consultant.
- (6) The Agency shall afford any procuring entity, bidder, supplier or contractor adequate opportunity to make representation in a

matter being investigated before taking any of the actions prescribed under subsection (4) of this section

- (7) The Agency may, pursuant to an advice of a procuring entity, result of its review on a procurement or report of investigation by a relevant government Agency, issue a variation order, requiring a contractor at his own expense to repair, replace, or to do anything in his or her contract left undone or found to have been carried out with inferior or defective materials or with less skill and expertise than required under the contract.

72. Where a Bidder becomes aware of any omission or breach by a

Procuring entity, such a Bidder may seek administrative review by submitting a written complaint to the MDAs under which the procuring entity operates.

*Administrative Review.*

73. (1) The following procedure shall apply to complaints against a procuring or disposing entity:

*Procedure for Complaints.*

(a) a complaint by a bidder against a procuring or disposing entity shall first be submitted in writing to the accounting officer of the procuring entity or disposing entity who shall on receiving the complaint make a decision in writing within fifteen (15) working days indicating the corrective measures to be taken,

i n c l u d i n g t h e  
s u s p e n s i o n o f t h e  
p r o c e e d i n g s w h e r e h e  
d e e m s i t n e c e s s a r y  
a n d g i v e s r e a s o n s f o r  
h i s d e c i s i o n ;

- (b) w h e r e t h e b i d d e r i s n o t  
s a t i s f i e d w i t h t h e  
d e c i s i o n o f t h e  
a c c o u n t i n g o f f i c e r , t h e  
b i d d e r m a y a p p e a l t o  
t h e A g e n c y w i t h i n t e n  
( 1 0 ) w o r k i n g d a y s f r o m  
t h e d a t e o f  
c o m m u n i c a t i o n o f t h e  
d e c i s i o n o f t h e  
A c c o u n t i n g o f f i c e r ;
  
- (c) u p o n r e c e i p t o f t h e  
a p p e a l , t h e A g e n c y  
s h a l l p r o m p t l y g i v e  
n o t i c e o f t h e a p p e a l t o  
t h e r e s p e c t i v e  
p r o c u r i n g o r d i s p o s i n g

entity and suspend any further action by the procuring or disposing entity until the Agency settles the matter;

- (d) before taking any decision on an appeal, the Agency shall notify all interested bidders of the appeal considering representations from the bidders and from the respective procuring or disposing entity; and
- (e) the Agency shall make its decision within twenty-one (21) working days after receiving the appeal, stating the reasons for its decision and remedies granted.

- (2) The following procedures shall apply to complaints against the Agency:
- (i) a complaint by a bidder against the Agency shall first be submitted in writing to the General Manager of the Agency who shall bring the complaint to the attention of the Governing Council. The Council shall notify all interested bidders of the complaint and consider all representations from the bidders and procuring or disposing entities;
  - (ii) the Agency shall make its decision within twenty-one (21) working days after

- receiving the complaint, stating the reasons for its decision and remedies granted;
- (iii) where a bidder is not satisfied with the decision of the Agency, the bidder shall lodge an appeal against the decision to the Osun Executive Council who shall have sixty (60) days to take a decision thereon; and
  - (iv) the decision of the Osun Executive Council may include any or all of the following:
    - (a) dismissal of the complaint;
    - (b) nullifying in whole or in part an unlawful act or decision made by



the procuring or disposing entity or the Agency;

(c) declaring the rules or principles governing the subject matter of the complaint; and

(d) revising an improper decision by the procuring or disposing entity or the Agency substituting same with its own decision.

74. (1) This section shall apply subject to the Public Enterprises (Privatization and Commercialization) Act, CAP 38, Laws of the Federation of Nigeria, 2004.

*Disposal of  
Public  
Property*

- (2) For the purposes of this Law every procuring entity shall also be a disposing entity.
- (3) The open competitive bidding shall be the primary source of receiving offers for the purchase of any public property offered for sale.
- (4) The Agency shall, with the approval of the Governor:
  - (a) determine the applicable policies and practices in relation to the disposal of all public properties;
  - (b) issue guidelines detailing operational principles and organizational modalities to be adopted by all procuring entities

engaged in the disposal of public property; and

- (c) issue standardized documents, monitor implementation, enforce and set reporting standards that shall be used by all procuring entities involved in the disposal of public property.

(5) The means of the disposal of public property shall include:

- (a) sales and rentals;
- (b) lease and hire purchase;
- (c) licenses and tenancies;
- (d) franchise and auctions;
- (e) transfer from one government department to another with or without financial adjustments; and

(f) offer to the public at an authorized variation.

75. (1) Before slating any public property for disposal, the Accounting officer (whether acting in his own authority or at the direction of any superior or other authority) in charge of any public property set for disposal, shall authorize the preparation of a valuation report for such property by an independent evaluator or such professional with the appropriate competence to carry out the valuation.

*Planning of  
Disposal*

(2) The disposal of assets whether listed or not in the assets register for a procuring entity shall be planned and integrated into the income and expenditure

budget projection of the procuring entity.

(3) The disposal of assets referred to in subsection (2) of this section shall be timed to take place when the most advantageous returns can be obtained for the asset in order to maximize revenue accruing to the government.

(4) All procuring entities shall distribute responsibilities for the disposal of public property between the procurement unit and the procurement committee.

76. (1) The Agency shall, with the approval of the Council, stipulate a Code of Conduct for all public officers, suppliers, contractors and service providers with

*Code of  
Conduct for  
Public  
Procurement*

regards to their standards of conduct acceptable in matters involving the procurement and disposal of public assets.

- (2) The conduct of all persons involved with public procurement, whether as official of the Agency, a procuring entity, supplier, contractor or service provider shall at all times be governed by the principles of honesty, accountability, transparency, fairness and equity.
- (3) All officers of the Agency, members of procurement committee and other persons that may come to act regarding the conduct of public procurements shall subscribe to an oath as approved by the council.

- (4) All persons in whose hands public funds may be entrusted for whatever purpose should bear in mind that its utilization should be judicious.
  
- (5) Where a transaction involves the disposal of assets, principles of honesty, accountability, transparency, fairness and equity shall continue to apply to the same extent as where it involves procurement.
  
- (6) These principles shall apply at all times, particularly when:
  - (a) making requisition for or planning of procurements;
  - (b) preparing solicitation documents;
  - (c) receiving offers in

response to any form of solicitation towards a procurement or disposal; and

- (d) evaluating and comparing offers confidentially.

77. (1) Any natural person who contravenes any provision of this Law commits an offence and is liable on conviction to a term of imprisonment not less than Five (5) years without an option of fine.

*Offences*

- (2) It shall be an offence to:
  - (a) open or tamper with any sealed Bid or any document required to be sealed, divulging their contents prior to the appointed time for the public opening of Bids or other



documents;

- (b) delay, without any justifiable cause, the screening for eligibility, opening of bids, evaluation and post evaluation of bids and awarding of contracts beyond the prescribed periods of action provided for in this Law or its Regulations;
  
- (c) enter or attempt to enter into a collusive agreement, whether enforceable or not, with a supplier, contractor or service provider where the prices quoted in their respective tenders, proposals or quotations are or would be higher than what it

would have been if there is no collusion between the persons concerned;

- (d) engage in procurement fraud by means of fraudulent and corrupt acts, promises, threats, unlawful influence, undue interest, agreement, corruption, bribery or any other way;
- (e) directly or indirectly attempting to influence in any manner the procurement process to obtain an advantage in the award of a procurement contract;
- (f) split tenders to enable the evasion of monetary threshold set;

- (g) bid-rigging;
- (h) alter any procurement document with intent to influence the outcome of a tender proceedings;
- (i) use fake documents or encouraging their use;
- (j) willfully refuse to allow the Agency or its officer to have access to any procurement record; and
- (k) withdraw a bid, after it has qualified as the Lowest Calculated Bid, Highest Rated Bid, refusal to accept an award without just cause or for the

purpose of forcing the Procuring Entity to award the contract to another bidder; this shall include the non-submission within the prescribed time, or delaying the submission of requirements such as, but not limited to, Performance Guaranty, preparatory to the final award of the contract.

- (3) Any person whilst carrying out his duties as an officer of the Agency, or any procuring entity which contravenes any provision of this Law and its Regulations commits an offence and shall be liable on conviction to a cumulative punishment of:
- (i) a term of imprisonment

- of five (5) years without option of fine; and
- (ii) summary dismissal from government services.
- (4) Any corporate body or firm that contravenes any provision of this Law and its regulation commits an offence and is liable on conviction to a cumulative penalty of;
- (a) being barred from all public procurement for a period not less than ten (10) years; and
  - (b) a fine equivalent to the value of the procurement in issue.
- (5) Where a Corporate body or Firm is convicted pursuant to subsection (4) of this section,

every Director of the Company shall be guilty of an offence and liable on conviction to a term of imprisonment for not less than three (3) years but not exceeding five (5) years without an option of fine unless he proves that the offence upon which the conviction was based was committed without his knowledge, consent or connivance.

- (6) An alteration pursuant to subsection (2) (h) of this section shall include but not limited to;
- (a) forged arithmetical correction or calculation;
  - (b) insertion of documents such as bid security or

tax clearance certificate  
which were not  
submitted at the bid  
opening; and

- (c) request for clearance in  
a manner not permitted  
under this Law and its  
regulations.
- (7) Collusion shall be presumed  
from a set of acts from which  
it can be assumed that there  
was an understanding,  
implicit, formal or informal,  
overt or covert under which  
each person involved  
reasonably expected that the  
other would adopt a  
particular course of action  
which would interfere with  
the faithful and proper  
application of the provisions  
of this Law.
- (8) Bid-rigging pursuant to  
subsection (2) (g) of this

section means an agreement between persons where:

- (i) offers submitted have been prearranged between them; or
- (ii) their conduct has had the effect of directly restricting free and open competition, distorting the competitiveness of the procurement process and leading to an escalation or increase in costs and/or loss of value to the State Treasury.

- (9) For the purpose of subsection (7) of this section, consideration shall be given to a suspect's ability to control the procurement proceedings or to control a solicitation or the conditions



of the contract in question, whether totally or partially, directly or indirectly.

- (10) For the purposes of subsections (2), (5) and (8) of this section, it shall be sufficient to prove that a reasonable business person should have known that his action would result in his company/firm having an undue advantage over other bidders to the detriment of the State Treasury.

78. The provisions of this Law shall apply to all procurement of goods, works and services carried out by:

- (a) The State Government, Local Government Areas, Local Council Development Areas, Area Councils and all procuring entities in the State;

*Scope of  
Application*

- (b) any public body in the State engaged in procurement, and shall include Ministries, Departments, Agencies (MDAs) and Offices, Parastatals and Corporations of the State; and
  
- (c) all entities outside the foregoing description which derive any funds appropriated or proposed to be appropriated for any type of procurement described in this Law from the State Government's share of Consolidated Revenue Fund.

79. The Osun State Public Procurement Law, 2015 and the Osun State Public Procurement (Amendment) Law, 2019 are hereby repealed.

*Repeals*

80. In this Law, unless the context otherwise requires:

**“Accounting Officer”** means any person charged with responsibility relating to procurement in a procuring entity;

*Interpretation*

**“Approving Authority”** means:

- a. in the case of a government agency, parastatal or corporation, the Parastatal Tender Council;
- b. in the case of a ministerial entity, the Ministerial Tender Council;
- c. for a period of three (3) years and in the case of contracts within the threshold that shall be set by the Agency in the regulations, the State Tender Council;

**“Assets”** includes tangible and intangible things which have been

or may be sold or procured for Consideration;

**“Council”** means the Osun Public Procurement Council;

**“Debar”** means the placing of a firm, company or natural person on a list of person ineligible to participate in any procurement proceeding under this Law;

**“Contract”** means an agreement entered in writing;

**“Contractor or Supplier”** means any potential party to a procurement contract with the procuring entity and includes any corporation, partnership, limited liability, partnership, individual, sole proprietors, joint stock companies, joint ventures or any other legal entity through which business is conducted;

**“Fund”** means the Osun Procurement Council Fund established under section 12 of this Law;

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

**“Governor”** means the Governor of Osun State

**“Interim Performance Certificate”** means evidence that a contractor or supplier has performed its obligations under a procurement contract up to a level stipulated by the procuring entity but not meaning completion;

**“International Competitive Bidding”** means the solicitation of

bids from both domestic and foreign contractors and suppliers;

**"Margin of Preference"** means the extra mark up on price allowed any domestic contractor or supplier bidding under International Competitive Bidding without being otherwise disadvantageous to the bid in terms of price;

**"Monetary Threshold"** means the value limit in Naira set by this Law and as may be prescribed by the Council from time to time;

**"National Competitive Bidding"** means the solicitation of bids from domestic contractors and suppliers registered or incorporated to carry on business under Nigerian Law;

**"Negotiation"** means discussion to determine the terms and conditions

of a contract or procurement;

***"Open Competitive Bidding"***

means the offer of prices by individuals or firms competing for a contract, privilege or right to supply specified goods, works, construction or services;

***"Procurement"*** means acquisition;

***"Procurement Proceedings"***

means the initiation of the process of effecting procurement up to award of a procurement contract;

***"Procuring Entity"*** means any public body in Osun engaged in procurement and includes Ministries, Departments, Agency, Offices and Agencies of Osun State Government, Extra-Ministerial Offices, Parastatals, Corporations, State University and Colleges,

Government Institutions and Local Government Councils, Local Council Development Areas and their derivative Units;

**"Public Procurement"** means the acquisition by any means of goods, works or services by the government;

**"State"** means Osun State of Nigeria;

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

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

**"Public Property"** is defined as resources in the form of tangible



and non-tangible assets (ranging from serviceable to the unserviceable)

- (a) created through public expenditure;
- (b) acquired as a gift or through deeds;
- (c) acquired in respect of intellectual or proprietary rights;
- (d) acquired on financial instruments (including shares, stocks, bonds etc.); and
- (e) transferred from one government department to another with or without financial adjustments.

## **SCHEDULE SUPPLEMENTARY PROVISIONS**

1. Where the Council desires to obtain the advice of any person on any matter, the Council may co-opt such person to be a member for the meeting or meetings as may be required, and the person shall whilst so co-opted, have all the rights and privileges of a member of the Council save that he shall not be entitled to vote on any question or count towards a quorum.

*Powers of the  
Governing  
Council Co-opt  
persons*

2. (1) The Council shall in each year hold a general meeting as its annual meeting, in addition to any other meetings in that year, and it shall specify the meeting as such.

*Meetings of  
the Council*

The Annual General Meeting shall be held within six (6) months after the close of each financial year and it shall be open to the public who shall be given adequate

notice of the meeting and salient points from the annual report.

- (2) The Council shall ordinarily meet for dispatch of business at such times and places as the Chairman may from time to time appoint, but not less than three (3) times in any financial year.
- (3) The Chairman shall preside at all meetings of the Council when he is present, and when he is not present any other member of the Council may be appointed by the members present at the meeting to preside.
- (4) Where not less than five members of the Council request the Chairman, by notice in writing signed by

them, to convene an extraordinary meeting of the Council for the purposes specified in the notice, the Chairman shall, upon receipt of such notice, convene an extraordinary meeting of the Council for those purposes within fourteen (14) working days.

- (5) Notwithstanding anything in the foregoing provisions of this paragraph the first ordinary meeting of the Council shall be summoned by the Chairman, who may give such directions as he thinks fit in respect of the procedures to be followed at the meeting.
  - (a) all questions at a meeting of the Council shall be determined by a majority vote of

members of the Council present and voting, being members who under this paragraph are entitled to vote at such meeting. and

- (b) at any meeting of the Council, each member other than the General Manager shall have a deliberative vote, and if there is equality of votes, the Chairman of the meeting shall, have a second or casting vote.

- 3. (1) Subject to the provisions of this Law, the Council shall make standing orders with respect to the holding of meetings of the Council, the notices to be given of such

*Standing  
Order*

meetings, the proceedings at the meetings, the keeping of minutes of such meetings, custody or the production for inspection of such minutes

- (2) Subject to any standing order made under sub-paragraph (1) of this paragraph, the procedure of the Council with respect to the holding of meetings shall be such as the Council may from time to time determine.

4. (1) A member of the Council who is in any way directly or indirectly interested in a transaction or project of the Council shall disclose the nature of his interest at a meeting of the Council, and such disclosure shall be recorded in the minute book and the member shall not

*Disclosure of  
interest by  
members of  
the Council*

take part in any deliberation or decision of the Council with respect to that transaction or project.

- (2) For the purpose of subparagraph (1) of this paragraph a general notice given at a meeting of the Council by a member to the effect that he is interested with any trade or business or he is a member of a specified company or firm and is to be regarded as interested in any transaction or project of the Council concerning that trade, business, company or firm, shall be regarded as sufficient disclosure of his interest in relation to that transaction or project.
- (3) A member of the Council may not attend in person a

meeting of the Council in order to make a disclosure which he is required to make under this Paragraph if he takes reasonable steps to ensure that the disclosure is made by a notice which is brought up and read at the meeting.

5. The Agency shall have its principal office in Osogbo or such other place in the State as may be designated for the efficient discharge of its functions, and may open branch offices in other locations in the State in accordance with the decision of the Council.

*Office of the  
Agency*

6. (1) The Common Seal of the Council shall be such as may be determined by the Council, and the affixing of the common seal shall be authenticated by the

*Common Seal*



signatures of the Chairman and the General Manager/Secretary, or of some other members authorized generally or specifically by the Council to act for that purpose.

- (2) Any document purporting to be a document duly executed under the common seal of the Council shall be received in any Court and shall, unless the contrary is proved, be deemed to be so executed.

7. The validity of any Proceeding of the Council shall not be affected by any vacancy in the membership of the Council or any defect in the appointment of a member to the Council, or by reason that a person not entitled to do so took part in the proceeding.

*Validity of Proceedings.*

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This printed impression has been carefully compared with the Law which has been passed by the Osun State House of Assembly and it is hereby certified to be a true and correct copy of the Bill.



**MR. SIMEON A. AMUSAN**  
*Clerk of the House*  
*Osun State House of Assembly*



**RT. HON. ADEWALE O. EGBEDUN**  
*Hon. Speaker*  
*Osun State House of Assembly*