

**BAUCHI STATE BUDGET MONITORING, PRICE
INTELLIGENCE & PUBLIC PROCUREMENT AGENCY**

**GUIDELINES FOR THE PROCUREMENT OF GOODS, WORKS
& SERVICES**

FEBRUARY, 2019

These guidelines should always be read, interpreted and implemented concurrently within the contexts and provisions of other relevant sections of the Bauchi State Budget Monitoring, Price Intelligence & Public Procurement Agency Law, 2017 (as amended).

Table of Contents

Citation	I
Table of Contents.....	III
List of Tables.....	IV
1. Establishment of Tenders Board.....	1
2. Membership of the Tenders Board.....	1
3. Approving Authority.....	1
4. Procurement Planning Committee	2
5. Procurement Implementation	3
6. Open Competitive Bidding.....	3
7. Invitation to Bid.....	4
8. Prequalification of Bidders – for complex projects and services.....	5
9. Bid Documentation	5
10. Bid Security	6
11. Bid Failure	6
12. Rejection of bids.....	7
13. Validity Period of bid.....	7
14. Bid Opening.....	7
15. Examination of Bids.....	8
16. Evaluation of Bids.....	9
17. Procurement of Services	14
18. Margin of Preference in procuring services.....	17
19. Criteria for choosing successful proposal	17
20. Selection Based on Price Only.....	18
21. Quality Based Selection of Consultant.....	18
22. Other Methods of Procurement: Public Private Partnerships (PPP)	19
23. Special and Restricted Procurement method	20
24. Limited Source or Restricted Bidding.....	20
25. Single source tendering.....	21
26. Repeat order	22
27. Shopping	22
28. Negotiated procurement	22
29. Direct Labour/Procurement.....	23
30. Disposal of Assets.....	23
31. Violation of Procurement Procedures/Practices	24

List of Tables

Table 1.1: Bid Price as Read Out (Works and Goods)	28
Table 2.1: Preliminary Evaluation (Works, Goods and Services)	28
Table 3.1: Technical Evaluation for Works	29
Table 4.1: Technical Evaluation for Goods	29
Table 5.1: Technical Evaluation (Least-Cost)	29
Table 5.2: Least Cost (Financial)	30
Table 6.1: Technical Evaluation (Quality-Based)	30
Table 6.2: Quality-Based (Selection).....	30
Table 7.1: Price Schedule for Goods.....	31
Table 8.1: Computational Error	31
Table 9.1: Corrections and Unconditional Discounts	31

Guidelines on Procurement of Goods & Works

1. Establishment of Tenders Board

- 1.1. To be constituted yearly

2. Membership of the Tenders Board

- 2.1. Membership of all Tenders Boards shall consist head of departments and of such other officers of the State Bureaucracy (MDAs' Due Process Liaison Officers) as may from time to time be stipulated by regulation of the Agency; provided that no Tenders Board shall have less than 5 or more than 9 members.
- 2.2. Chairman of the Tenders Board should be the Permanent Secretary/Accounting Officer; and DPRS to be the Board's Secretary.
- 2.3. In all cases where there is need for pre-qualification, subject to implementing rules, the chairman of the Tenders Board shall constitute technical evaluation sub-committee of the Council, charged with responsibility for evaluation of bids, which may be made up of professional staff of the procuring entity and the Secretary of the Tenders Board to serve as the chairman of the sub-committee.
- 2.4. A Tenders Board shall, where necessary, subject to this Law and in addition to its regular members, co-opt persons from within or outside the state civil service or hire members of the public who it determines have requisite or special knowledge that brings value to its work, but such persons shall not have voting right.
- 2.5. The Local Government Tenders Board shall be chaired by the Accounting Officer or his representative, all heads of department and such other members as the Agency may by regulations specify from time to time.

3. Approving Authority

- 3.1. The following shall be the approving authorities for the conduct of public procurement.
 - 3.1.1. Ministries – Ministerial Tenders Board.
 - 3.1.2. Judiciary – Tenders Board of various arms of Judiciary.
 - 3.1.3. House of Assembly – Legislative Tenders Board.
 - 3.1.4. Local Government – Local Government Tenders Board.
 - 3.1.5. Extra-ministerial, universities, colleges, government-owned corporations – Extra-ministerial Tenders Board.

4. Procurement Planning Committee

- 4.1. Every procuring entity within the purview of this Law shall constitute a Procurement Planning Committee which shall also act as a Disposal Planning Committee.
- 4.2. The procurement and disposing planning function of each procuring entity shall be carried out by the Procurement Planning Committee.
- 4.3. The functions of the procurement planning committee shall, subject to regulations made from time to time by the Agency, be to:
 - 4.3.1. Prepare the entities procurement needs assessment and evaluation; in co-ordination with relevant units of the procuring entity
 - 4.3.2. Identify the goods, works or services required to be procured;
 - 4.3.3. Carry out appropriate market and statistical surveys and on that basis prepare an analysis of the cost implications of the proposed procurement;
 - 4.3.4. Develop Technical specifications of all goods, works and services
 - 4.3.5. Aggregate its requirements whenever possible, both within the procuring entity and between procuring entities, to obtain economy of scale and reduce procurement costs
 - 4.3.6. Integrate its procurement expenditure into its yearly budget within any existing budgetary framework,
 - 4.3.7. Recommend a method for effecting the procurement, subject to the approval of the Tenders Board, coordinate the entity's procurement process and serve as secretariat of the Tenders Council;
 - 4.3.8. Prepare all solicitation documents in accordance with minimum standard specifications;
 - 4.3.9. Maintain procurement records.
- 4.4. The procurement planning committee shall in addition to other persons that may be provided for by the rules consist of:
 - 4.4.1. The accounting officer of the procuring entity or his representative who shall chair the committee;

A representative of;
 - 4.4.2. the unit directly in need of the procurement;

- 4.4.3. the financial unit of the procuring entity;
 - 4.4.4. the procurement unit of the procuring entity who shall be the secretary
 - 4.4.5. technical personnel of the procuring entity with expertise in the subject matter for each particular procurement; or
 - 4.4.6. the planning, research and statistics unit of the procuring entity
 - 4.4.7. such other persons as may be specified from time to time in the implementing regulations.
- 4.5. There is hereby established a Procurement Planning Committee in every Local Government in Bauchi State to be headed by the Head of Administration of each Local Government Area or his appointee who must be a civil servant of not less than rank of a director in the Local Government with the following membership:
- 4.5.1. A representative each of all departments in the Local government except for the works department which shall have two representatives;
 - 4.5.2. Technical staff of the Local Government with expertise in the subject matter for each procurement;
 - 4.5.3. The Procurement Planning Committee may, where necessary, subject to this law and in addition to its regular members, co-opt persons from within or outside the service or hire members of the public who it determines have requisite or special knowledge that brings value to its work, but such persons shall have no voting right;
 - 4.5.4. Any other persons as may be prescribed by the rules issued pursuant to this Law.

5. Procurement Implementation

- 5.1. Procurement methods;

6. Open Competitive Bidding

- 6.1. The procurement of goods, works and services by all procuring entities shall be conducted by Open Competitive Bidding except as may be otherwise provided by this Law under the following methods;

S/№	METHODS	THRESHOLD AMOUNT
-----	---------	------------------

1.	International Competitive Bid (ICB)	<ul style="list-style-type: none"> a) Works – ₦1 billion and above b) Goods – ₦1 billion and above c) Services – ₦500 million and above
2.	National Competitive Bid (NCB)	<ul style="list-style-type: none"> a) Works – ₦20 million and above but less than ₦1 billion b) Goods – ₦10 million and above but less than ₦1 billion c) Services – ₦10 million and above but less than ₦500 million
3.	State Competitive Bid (SCB)	<ul style="list-style-type: none"> a) Works – ₦1 million and above but less than ₦20 million b) Goods – ₦1 million and above but less than ₦10 million c) Services – ₦1 million and above but less than ₦10 million

7. Invitation to Bid

- 7.1. In the case of goods, works and services valued under International Competitive bidding, the invitation for bids shall be advertised in at least two (2) national newspapers, one (1) relevant internationally recognized publication, the official websites of the procuring entity and the Agency (if any), not less than six weeks before the deadline for submission of the bids for the goods, works and services.
- 7.2. In the case of goods, works and services valued under National Competitive bid, the invitation for bids shall be advertised on the notice Board of the Council (BMPIPPA) and the procuring entity, any official websites of the procuring entity, the State Procurement Journal and at least one (1) national newspaper not less than four weeks before the deadline for submission of the tenders for the works, goods and services or such other time as the rules may stipulate.
- 7.3. In the case of goods, works or services valued under state competitive bidding, the invitation for bids shall be advertised on the notice Board of the Council (BMPIPPA) and of the procuring entity, any official websites of the procuring entity, the State Procurement Journal, and at least one other publication circulating around the State, not less than four weeks before the deadline for submission of the tenders for the works, goods and services.
- 7.4. Not later than six (6) months after the enactment of this Law, the Agency shall issue guidelines for the advertisement/publication of Invitations to Bid.

8. Prequalification of Bidders – for complex projects and services

8.1. Where a procuring entity has made a decision with respect to the minimum qualifications of suppliers, contractors or consultants by requesting interested persons to submit applications to prequalify, it shall set out precise criteria upon which it seeks to give consideration to the applications and in reaching a decision as to which supplier, contractor or consultant qualifies, shall apply only the criteria set out in the prequalification documents and no more. The prequalification criteria for goods, works and services shall include the following:

8.1.1. Registration with CAC

8.1.2. Registration with the Bauchi State Government as contractor, supplier or consultant

8.1.3. Up-to-date Tax Clearance Certificate

8.1.4. Financial capability

8.1.5. Verifiable evidence of similar assignment handled in the last three years

8.1.6. Relevant equipment

8.1.7. Relevant personnel

9. Bid Documentation

9.1. The Standard Bidding Document (SBD) shall include the following:

9.1.1. Invitation to bid, with precise Instructions to bidders, including criteria for eligibility, bid evaluation and as well as the date, time and place of the pre-bid Conference (where applicable), dateline for submission of bids and opening of bids; the dateline for submission of bids must give enough time for bidders to prepare and submit their bids taking into account reasonable needs of the procuring entity;

9.1.2. Terms of Reference (TOR);

9.1.3. Eligibility Requirement and precise criteria upon which it seeks to give consideration to the bids;

9.1.4. Plants and or Technical Specification;

9.1.5. Form of Tender, Price Form, and List of Goods or Bill of Quantities;

9.1.6. Delivery Time or Completion Schedule;

- 9.1.7. Form and Amount of bid Security;
- 9.1.8. Form and amount of performance guarantee;
- 9.1.9. Form of contract, general and special conditions of contract;

10. Bid Security

10.1. All bids for public procurements shall be accompanied by a bid Security in an amount of 2% of the bid by way of a bank guarantee issued by a reputable bank acceptable to the procuring entity.

10.2. Submission of bids

All bids in response to an invitation shall be submitted in writing or any other format stipulated in the bid solicitation, signed by an official authorized to bind the bidder to a contract and placed in a properly sealed envelope or other package.

10.2.1. All submitted bids shall be deposited and kept in a secured tamperproof tender-box.

10.2.2. All bids submitted shall be in English Language.

10.2.3. Every bidder submitting a bid shall be issued a receipt showing the date and time the bid was received.

10.2.4. Any bid received after deadline for the submission of bids shall not be opened and must be returned to the supplier, contractor or consultant who submitted it.

10.2.5. 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 or in the regulations issued pursuant to this Law.

11. Bid Failure

11.1. There is a bid failure if:

11.1.1. No bid was received;

11.1.2. None of the bids received was responsive to the solicitation; or

11.1.3. The number of bids received fell short of such minimum number of bids as may be specified in the regulation for effective competition;

11.1.4. The successful bidder refuses to accept the award of the contract, and the next responsive bidder in line also refuses to accept an award.

11.2. Where there is bid failure any of the following shall take place:

11.2.1. The contract may, subject to the regulations, be re-advertised and the bidding process repeated;

12. Rejection of bids

12.1. A procuring entity may:

12.1.1. Reject all bids at any time prior to the acceptance of a bid.

12.1.2. Cancel the procurement proceedings in the public interest.

12.1.3. No suit shall lie against a procuring entity, its officers or agents as a result of the cancellation of a procurement process or rejection of all bids under this section.

13. Validity Period of bid

13.1. The period of validity for a bid shall be the period specified in the bid solicitation documents.

13.2. A procuring entity may request supplier, contractor or consultant to extend the period of validity for an additional specified period of time.

13.3. A supplier, contractor or consultant may refuse the request and the effectiveness of its bid will terminate upon the expiry of the un-extended period of effectiveness.

13.4. A supplier, contractor or consultant may modify or withdraw its bid prior to the deadline for the submission of bids.

13.5. The modification, substitution or notice of withdrawal is effective if it is received by the procurement entity before the deadline for the submission of bids or any extension thereof.

14. Bid Opening

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

14.1.1. Permit bidders or their representatives attending the bid opening to examine the envelopes in which the bids have been submitted to ascertain that the bids have not been tampered with;

14.1.2. Cause all the bids to be opened in public, immediately after the deadline for submission of bids, in the presence of the bidders or their representatives and any interested member of the public;

- 14.1.3. Ensure that the tender opening takes place immediately following the deadline stipulated for the submission of bids or any extension;
- 14.1.4. Ensure that a register is taken of the names and addresses of all those present at the bid opening and the organization they represent which is recorded by the Secretary of the Tenders Board or any person nominated on his behalf;
- 14.1.5. Call out to the hearing of all present; the name and address of each bidder, the total amount of each bid, the bid currency and ensure that these details are recorded by the Secretary of the Tenders Board or his delegate in the minutes of the bid opening, which shall be made available to every bidder.

15. Examination of Bids

- 15.1. After bid opening, every bid shall be first examined to determine if it:
 - 15.1.1. Meets the minimum of eligibility requirements stipulated in the bid documents;
 - 15.1.2. Has been duly signed;
 - 15.1.3. Is substantially responsive to the bid documents; and
 - 15.1.4. Is generally in order.
- 15.2. A procuring entity may ask a supplier or a contractor for clarification of its bid submission within a specified time in order to assist in the examination, evaluation and comparison of bids.
- 15.3. The following shall not be sought, offered or permitted as clarification:
 - 15.3.1. Changes in price;
 - 15.3.2. Changes in the substance of a bid; and
 - 15.3.3. Changes to make an unresponsive bid responsive.
- 15.4. Notwithstanding the provisions of subsection (15.3) of this section, the procuring entity may correct purely arithmetical errors that are discovered during the examination of bids.
- 15.5. The procuring entity, shall give prompt notice of the correction to the supplier, contractor or consultant that submitted the bid. If the correction is not accepted by the bidder, its bid shall be immediately excluded from the evaluation process.

15.6. A major deviation shall result in a rejection of bid while a minor deviation shall be subject to clarification. The Agency shall issue Regulations stipulating the grounds for a deviation.

15.6.1. Major Deviation includes among others:

- Un-acceptable subcontracting;
- Un-acceptable time schedule, if time is of essence;
- Un-acceptable alternative designs;
- Un-acceptable price adjustments;
- Ineligible or un-prequalified bidder;
- Un-invited bidder;
- Unsigned bid;
- Late submission of bid;
- Bid submitted at wrong location

15.6.2. Minor Deviation includes among others:

- The use of alternate codes;
- The use of different standards and materials;
- Alternative designs and workmanship;
- Modified liquidated damages;
- Omission of minor item;
- Discovery of arithmetical errors;
- Completion period where this is not of essence;
- Payment terms.

16. Evaluation of Bids

16.1. 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.

16.1.1. Preliminary evaluation – eligibility criteria

16.1.2. Technical evaluation – general experience, specific experience, personnel qualification, equipment and financial capability

16.1.3. Financial evaluation – price comparison, correction of errors, discounts

16.1.4. Post-qualification evaluation

Guidelines on Procurement of Services

17. Procurement of Services

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

- 17.1. It shall solicit for expressions of interest or applications to shortlisted consultants to provide the precise services by publishing a notice to that effect in at least 2 national newspapers and the procurement journal;
- 17.2. Provided that where the value of the services to be procured is **less than ₦10 Million (ten million naira)** or of such a low value that only local consultants would be interested, the procuring entity, with the approval of the Agency, may without placing a notice pursuant to subsection (17.1) of this section, request at least 3 consultants or service providers to make proposals for the provision of the services in a format stipulating:
 - 17.2.1. A statement of qualifications of the consultants to provide the service;
 - 17.2.2. A statement of understanding of the procuring entity' s needs;
 - 17.2.3. The methodology for providing the service:
 - 17.2.4. The time frame for providing the service: and
 - 17.2.5. The cost/fee for the service.
- 17.3. Request for Proposals must include:
 - i) The name and address of the procurement entity;
 - ii) A requirement that the proposals are to be prepared in English Language;
 - iii) The manner, place and deadline for the submission of proposals;
 - iv) A statement to the effect that the procuring entity reserves the right to reject proposals;
 - v) Criteria and procedures for the evaluation of the qualifications of the consultants;
 - vi) The requirements on documentary evidence or other information that shall be submitted by suppliers or contractors to demonstrate their qualifications including a verifying affidavit;

- vii) 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;
- viii) Whether the procuring entity is seeking proposals on various possible ways of meeting its needs;
- ix) A requirement that the proposal price is to be expressed in Nigerian currency.
- x) 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;
- xi) Whether the procedure to ascertain the successful responsive 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;
- xii) The criteria to be used to determine the successful proposal, including any margin of preference and the relative weight of the criteria;
- xiii) A statement on alternatives to the characteristics of the consulting services, contractual terms and conditions or other requirements set out in the invitation for proposals if permitted and a description of the manner in which the alternative proposals are to be evaluated and compared;
- xiv) The name, functional title and address of one or more officers or employees of the procuring entity who are authorized to communicate directly with and to receive communications directly from consultants in connection with the procurement proceedings, without the intervention of an intermediary;
- xv) The means by which consultants may seek clarification on the invitation for proposals and a statement whether the procurement entity intends to convene a meeting of consultants; and
- xvi) The terms and conditions of the consultancy contract and the contract form to be signed by the parties.

17.4. The procuring entity shall provide the same information to every consultant or service provider requested to submit proposals.

- i) A consultant may request clarification of the request for proposals from the procuring entity
- ii) Whether on its initiative or as a result of a request for clarification by a consultant, a procuring entity may modify the request for proposals by issuing an addendum at any time prior to the deadline for submission of proposals.
- iii) The addendum shall be communicated promptly before the deadline for the submission of proposals to the short-listed consultants to whom the procuring entity has provided the request for proposals and shall be binding on those consultants, provided that the procuring entity shall where it considers it necessary as a result of an addendum and pursuant to rules issued by the Agency grant an extension of time for submission of the proposal.
- iv) 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 the requests for clarifications.
- v) The minutes shall be provided promptly before the deadlines for the submission of proposals to the consultants participating in the selection proceedings to enable them take the minutes into account in preparing their proposals.
- vi) The procuring entity shall allow sufficient time for the preparation and submission of the requested proposals, and shall in no case give less than 30 days between the issue of the notice or request and the deadline for submission.
- vii) The technical and financial proposals shall be submitted simultaneously, but in separate sealed envelopes.
- viii) Any proposal received after the deadline for submission of proposals shall be returned to the sender unopened.
- ix) 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.
- x) Under no circumstances should the technical evaluation committee have access to or insights to the financial proposals until the evaluations including any resident tender's committee's review are concluded, such review shall not exceed a number of days stipulated in the Regulations.

- 17.5. The procuring entity shall establish criteria for evaluation of 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 proposals. The criteria may concern the following:
- i) The qualifications, experience, reliability, professional and managerial competence of the consultant or service provider and of the personnel to be involved in providing the services;
 - ii) The effectiveness of the proposal submitted by the consultant or service provider in meeting the needs of the procuring entity;
 - iii) The proposal price, subject to any margin of preference applied, including any ancillary or related costs in the case of quality and cost Based selection;
 - iv) The effect that the acceptance of the proposal will have on the balance of payments position and foreign reserves of the government, the extent of participation by local personnel, the economic development potential offered by the proposal, including domestic investment or other business activity, the encouragement of local employment, the transfer of technology, the development of local managerial, scientific and operational skills and the counter trade arrangements offered by consultant or service providers; and
 - v) The Agency shall make detailed rules to guide Quality and Cost based selection, and requirements for acceptance and evaluation of bids for supply of goods and works in an international competitive bid may mirror the requirements set forth in this section.

18. Margin of Preference in procuring services.

- 18.1. 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.

19. Criteria for choosing successful proposal

- 19.1. A procuring entity shall select the successful proposal by either:

19.1.1. Choosing the responsive proposal with the lowest price (the lowest evaluated responsive bid or proposal) or;

19.1.2. Choosing the responsive proposal with the best combined evaluation in terms of the general criteria set out in the request for proposals and the price quoted;
or

19.1.3. The highest ranked responsive technical proposal within the budget.

19.1.4. 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 subsection (19.1) above.

19.2. Nothing in this section shall prevent the procuring entity from resorting to the use of an impartial panel of experts to make the selection.

20. Selection Based on Price Only

20.1. Where a procuring entity elects to choose the successful proposal based on price only, it shall:

20.1.1. Establish a threshold with respect to quality and technical aspects 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; and then

20.1.2. The procuring entity shall compare the prices of those proposals that have attained a rating at or above the threshold;

20.1.3. The procuring entity shall within a period of 14 working days after the decision has been taken by the procurement entity; notify the consultants whose proposals did not meet the minimum qualifying mark or were not responsive to the invitation for proposals the names of the qualifying consultants,

20.1.4. At the opening of the financial proposals, 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;

20.1.5. The procuring entity shall prepare the minutes of public opening of financial proposals which shall be part of the evaluation report and shall retain this record.

21. Quality Based Selection of Consultant

21.1. The consultants with the winning proposal shall be invited for negotiations, which shall focus mainly on the technical proposals.

21.2. Proposed unit rates for staff-months and reimbursable shall not be negotiated unless there are exceptional reasons.

- 21.3. Where the procuring entity elects to make a quality-based selection, based on consultant's qualifications or single-source selection, it shall engage in negotiations with consultants in accordance with this section.
- 21.4. The procurement entity shall:
- 21.4.1. Establish a threshold with respect to quality and technical aspects of the proposals in accordance with the criteria other than price as might have been set out in the request for proposal and rate each proposal in accordance within such criteria and the relative right and manner of application of the criteria as stipulated in the request for proposals;
 - 21.4.2. Invite for negotiations on the price of its proposal, the consultant that has attained the best rating in accordance with subsection (21.4.1) above;
 - 21.4.3. Inform the suppliers or contractors that attained ratings above the threshold that they may be considered for negotiations if the negotiations with the consultant with the best rating do not result in a procurement contract;
 - 21.4.4. Inform the consultant with the best rating, that it is terminating the negotiations if it becomes apparent to the procuring entity that the negotiations with that consultant, invited under subsection (21.4.2), will not result in a procurement contract.
- 21.5. The procuring entity shall, if negotiations with the consultant with the best rating fails, invite the consultant that obtained the second best rating, and if the negotiations with that consultant do not result in a procurement contract, the procuring entity shall invite the other suppliers or contractors for negotiations on the basis of their rating until it arrives at a contract or rejects the remaining proposals.
- 21.6. The procuring entity shall treat proposals and any negotiations on selection procedure as confidential and avoid the disclosure of their contents to competing consultants.

22. Other Methods of Procurement: Public Private Partnerships (PPP)

- 22.1. A procuring entity may prepare and concession or grant a right to build, operate, manage, lease, retain or howsoever exploit for economic or fiduciary purposes any type of public infrastructure or utility whether on an exclusive or non-exclusive basis. b) The forms of PPP contracts regulated under this law shall include and not be limited to:
- 22.1.1. Concession or Lease;
 - 22.1.2. Build Operate and Transfer Contracts;
 - 22.1.3. Build Own and Operate Contracts;

- 22.1.4. Service Contracts;
- 22.1.5. Management Contracts; and
- 22.1.6. Joint Ventures and Partnerships

23. Special and Restricted Procurement method

23.1. The following shall be considered special and restricted methods of procurement and may be used by procuring entities only in special cases and with prior approval of the Agency:

23.2. Two stage tendering Method:

A procuring entity may engage in procurement by two stage tendering in the following circumstances:

23.2.1. Where it is not feasible for the procuring entity to formulate detailed specification for the goods or works.

23.2.2. Where it seeks bids, proposals or offers on various means of meeting its needs, in order to obtain the most satisfactory solution to its procurement needs;

23.2.3. Where the character of the goods or works or services are subject to rapid technological advances;

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

23.2.5. Where the open competitive bid method has been utilized without success or the bids were rejected by the procuring entity under an open competitive bid procedure and the procuring entity considers that engaging new bidding proceeding will not result in a procurement contract.

a) The provision of this Law as regard the process for open competitive bidding shall apply to two stage tendering proceeding except to the extent that those provisions vary from this section.

b) Clearance and detailed procedure for two stage tendering shall be provided by the Agency on request from the MDAs.

24. Limited Source or Restricted Bidding

24.1. Limited Source Bidding or Selective Bidding may only be used for the:

- 24.1.1. Procurement of highly specialized types of Goods, Works and Consulting Services which are known to be obtainable only from a limited number of sources; or
- 24.1.2. Procurement of major plant components where it is deemed advantageous to limit the bidding to known eligible bidders in order to maintain an optimum and uniform level of quality and performance of the plant as a whole.
- 24.1.3. Procurement where the time and cost required to examine and evaluate a large number of bids or proposals will be disproportionate to the value of the goods, works or services to be performed, provided that in this instance the procuring entity invites enough consultants to ensure transparent competition;
- 24.2. The provisions of this law regarding open competitive bidding shall apply to limited source or restricted tendering, except to the extent that those provisions may be varied by this section.
- 24.3. Clearance and detailed procedure for limited source or selective bidding shall be provided by the Agency on request from the MDAs.

25. Single source tendering

Under Single source procurement a procuring entity may only engage in Direct Contracting for the following:

- 25.1. Procurement of Goods, works (or services) of proprietary nature, which can be obtained only from the proprietary source, i.e. when patents, trade secrets and copyrights prohibit others from manufacturing the same item;
- 25.2. When the Procurement of critical components from a specific manufacturer, supplier or distributor is a condition precedent to hold a contractor to guarantee its project performance, in accordance with the provisions of his contract;
- 25.3. Procurement of goods sold by an exclusive dealer or manufacturer, which does not have sub-dealers selling at lower prices and for which no suitable substitute can be obtained at more advantageous terms to the Government.
- 25.4. In cases when a state of calamity whether man-made or natural causes the need for immediate action to prevent damage or the endangerment or loss of life or property;
- 25.5. To restore vital public services and or preserve the operation of public utilities or infrastructure; or
- 25.6. Clearance and detailed procedure for single source bidding shall be provided by the Agency on request from the MDAs.

26. Repeat order

- 26.1. A procuring entity may only engage in procurement by Repeat Order if:
 - 26.1.1. The unit price is equal to or lower than that provided in the original contract;
 - 26.1.2. The repeat order does not result in splitting of requisitions or purchase orders;
 - 26.1.3. The repeat order is requisitioned not later than six months from completion of the original contract or if during the currency of a contract not earlier than 6 (six) months after its commencement.
- 26.2. The repeat order shall not exceed twenty-five percent (25%) of the quantity of each item of the original contract.
- 26.3. Clearance and detailed procedure for repeat order shall be provided by the Agency on request from the MDAs.

27. Shopping

- 27.1. A procuring entity may only engage in Shopping if:
 - 27.1.1. The Procurement is strictly for the purchase of ordinary or regular office supplies and equipment for the use of the procuring entity involving an amount not exceeding a specific amount provided for in the implementing rules; or
 - 27.1.2. When the time and cost that may be required to examine and evaluate a large number of bids is considered to be disproportionate to the value of the goods, works or services to be procured.
- 27.2. The procuring entity shall select a minimum of five (5) price sealed quotations from bona fide suppliers selected in a non-discriminatory manner to ensure effective competition and avoid collusion and related malpractices.
- 27.3. Clearance and detailed procedure for Sealed Quotations shall be provided by the Agency on request from the MDAs.

28. Negotiated procurement

- 28.1. A procuring entity may only engage in Negotiated Procurement if:
 - 28.1.1. In cases of two failed bids, as provided in Section (11.1.) above.
 - 28.1.2. The subject contract is adjacent or contiguous to an on-going infrastructure project: Provided, however, that the original contract is the result of a Competitive Bidding; the subject contract to be negotiated has similar or

related scope of work; it is within the contracting capacity of the contractor; the contractor uses the same prices or lower unit prices as in the original contract less mobilization cost; the amount involved does not exceed one half of the amount of the ongoing project; and, the contractor has no negative slippage: Provided, further, that negotiations for the procurement are commenced before the expiry of the original contract. Whenever applicable, this principle shall also govern consultancy contracts, where the consultant has unique experience and expertise to deliver the required service;

- 28.2. In all instances, the Procuring Entity shall ensure that the most advantageous price for the Government is obtained, and that the principles of transparency, accountability and value for money are adhered to.
- 28.3. Clearance and detailed procedure for negotiated procurement shall be provided by the Agency on request from the MDAs

29. Direct Labour/Procurement

- 29.1. A procuring entity may use direct labour based on the following conditions:
 - 29.1.1. The procurement is of emergency nature hence cannot stand the elaborate required procurement procedure.
 - 29.1.2. The MDA or LGA has the prerequisite skills, knowhow and equipment to execute the work;
 - 29.1.3. Using the in-house team is at least as economical (if not economically better) than using contractors.
 - 29.1.4. Notwithstanding the above conditions, no procuring entity shall carry out direct labour/procurement without an explicit prior executive approval.

30. Disposal of Assets

- 30.1. For the purposes of the Law establishing the Bauchi State Public Procurement Agency, every procuring entity shall also be a disposing entity.
- 30.2. Open Competitive bidding shall be the primary source of receiving offers and procuring purchasers for the purchase of any public property offered for sale.

For every procuring entity to conduct an effective disposal of property/assets must have applied the relevant policies, rules and practices in particular disposal. These includes among others:

- 30.2.1. Report from the board of survey.

- 30.2.2. Clearance from the office of the Auditor General
 - 30.2.3. Government valuation report
 - 30.2.4. Executive approval/clearance
 - 30.2.5. Any other relevant applicable requirement as the case may be.
- 30.3. Subject to this section and for the purposes of the Law establishing the Bauchi State Public Procurement Agency, "Public Property" is defined as resources in the form of tangible and nontangible assets (whether serviceable and/or non-serviceable):
- 30.3.1. Created through public expenditure;
 - 30.3.2. Acquired as a gift or through deeds;
 - 30.3.3. Acquired in respect of intellectual or proprietary rights;
 - 30.3.4. Acquired by goodwill and any other rights of the State Government.
- 30.4. The means of the disposal of public assets shall, subject to Regulations, include but not be limited to:
- 30.4.1. Sales and rentals;
 - 30.4.2. Hire-purchase;
 - 30.4.3. Licenses, tenancies and leases;
 - 30.4.4. Franchise and auction;
 - 30.4.5. Transfers from one government department to another with or without financial adjustments; and
 - 30.4.6. Offers to the public.

31. Violation of Procurement Procedures/Practices

- 31.1. Any natural person not being a public officer who contravenes any provision of this Law commits an offence and is liable on conviction to a term of imprisonment of not less than six months but not exceeding 2 calendar years or an option of fine of ₦500,000.00.
- 31.2. It shall be an offence subject to sub-section (31.1.) of this section to:
 - 31.2.1. Open or tamper with any sealed bid or any and all documents required to be sealed or divulging their contents prior to the appointed time for the public opening of bids or other documents;

- 31.2.2. Delay without justifiable cause, the screening for eligibility, opening of bids evaluation and post evaluation of bids and awarding of contracts beyond the prescribed limits/periods of action provided for in this Law or regulations made hereunder;
 - 31.2.3. Enter or attempt to enter into a collusive agreement, whether enforceable or not, with a supplier, contractor or consultant where the prices quoted in their respective bids, proposals or quotations are or would be higher than would have been the case had there not been collusion between the persons concerned;
 - 31.2.4. Conduct procurement fraud by means of fraudulent and corrupt acts, promises, threats, unlawful influence, undue interest, agreement, corruption, bribery or other actions;
 - 31.2.5. Directly, indirectly, or attempting to influence in any manner the procurement process to obtain an unfair advantage in the award of a procurement contract;
 - 31.2.6. Split tenders to enable the evasion of monetary thresholds set;
 - 31.2.7. Participate in bid-rigging;
 - 31.2.8. Alter any procurement document with intent to influence the outcome of a bid proceeding;
 - 31.2.9. Use fake documents or encourage their use;
 - 31.2.10. Willfully refuse to allow the Agency or its officers have access to any procurement records; and
 - 31.2.11. Withdraw a bid, after it shall have qualified as the Lowest calculated responsive bid Highest Rated Bid, and/or refusal to accept an award without just cause 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 Guarantee preparatory to the final award of the contract.
- 31.3. Any person whilst carrying out his duties as an officer or employee of the Agency or any procuring or disposing entity who contravenes any provision of this Law commits an offence and is liable on conviction to the following punishment:
- 31.3.1. A term of imprisonment not less than 2 (two) years or an option of fine of ₦500,000.00; or
 - 31.3.2. Dismissal from government service without any severance benefits.

- 31.4. Any company or juristic entity that contravenes any provision of this Law commits an offence and is liable on conviction to a penalty of
- 31.4.1. Debarment from all public procurement for a period not less than 3 calendar years; or
- 31.4.2. A fine equivalent to the value of the procurement in issue.
- 31.5. Where any legal person is convicted pursuant to subsection (31.4) of this section, director of the company shall subject to subsection (31.11) hereof be guilty of an offence and liable on conviction to a term of imprisonment not less than 1 (one) year but not exceeding 5 years with an option of fine of ₦1,000,000.00.
- 31.6. An alteration pursuant to subsection (31.2.8) of this section shall include but not limited to:
- 31.6.1. forged arithmetical correction;
- 31.6.2. insertion of documents such as bid security or tax clearance certificate which were not submitted together with the bid; and
- 31.7. Collusion shall be presumed from a set of acts from which it can be inferred 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 cause of action which would interfere with the due and proper application of the provisions of this Law.
- 31.8. Bid rigging pursuant to subsection (31.2.7) means an agreement between persons where:
- 31.8.1. Offers submitted have been prearranged between them; or
- 31.8.2. 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.
- 31.9. For the purpose of subsection (31.7) 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 total or partial, directly or indirectly.
- 31.10. For the purposes of subsection (31.2), (31.5) and (31.8) above, 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.

31.11. For the purpose of subsection (31.5) of this section, considerations shall be given to whether a director is involved in the day to day management of the company, proof of his personal knowledge, or encouragement or approval of the actions constituting the offence shall be considered in arriving at a conviction.

31.12. Where any person charged with a crime under this Law, before the commencement of hearing of the charge admits his guilt and makes prompt and complete refund or restoration of any benefits he obtained in relation to the contravention or crime, and full disclosure of all facts including other persons involved in the commission of the crime, the court shall have the power to impose lesser punishment than those prescribed by this Law.

GUIDE TO EVALUATION PROCESS

Table 1.1: Bid Price as Read Out (Works and Goods)

S/No	Bidder's Name	Address	Bid Price as Read Out		Remarks
			₦	Amount	
1.					
2.					
3.					
4.					

Table 2.1: Preliminary Evaluation (Works, Goods and Services)

S/No	Bidder's Name	Evidence of Registration with CAC	Evidence of up-to-date Registration with the State as Contactor	Evidence of up-to-date Tax Clearance Certificate/Companies Audited Account	Bid Security	Accepted for Detailed Evaluation (Pass or Fail) *
1.						
2.						
3.						
4.						

* Note ; that evaluation here is on pass/fail basis; fail in one means fail in all

Table 3.1: Technical Evaluation for Works

S/№	NAME OF BIDDER	General Experience (15% max)	Specific Experience (15% max)	Equipment Requirement (30% max)	Personnel Qualification and Experience (40% max)	Total Score (100%)
1.						
2.						
3.						
4.						
Pass Mark ; 60% (Applicable on the Total Score)						

Table 4.1: Technical Evaluation for Goods

S/№	Name OF Bidder	General Experience (20% Max)	Specific Experience (30% Max)	Compliance to Specification (40% Max)	Delivery Schedule (10% Max)	Total Score (100%)
1.						
2.						
3.						
Pass Mark ; 60% (Applicable on the Total Score)						

Table 5.1 (a): Technical Evaluation (Least-Cost)

S/№	Name of Bidder	General Experience (15% Max)	Specific Experience (20% Max)	Methodology and Approach (20% Max)	Qualification of Key Staff (30% Max)	Transfer of Knowledge (10% Max)	Local Input (5% Max)	Total Score (100%)
1.								
2.								
3.								
Pass Mark ; 60% (Applicable on the Total Score)								

Table 5.2: Least Cost (Financial)

S/No	Bidder Name	Technical Score (obtained from Technical Evaluation)	Financial Bid Amount	Ranking	Remark
1.					
2.					
3.					
* Lowest Price wins					

Table 6.1: Technical Evaluation (Quality-Based)

S/No	Name of Bidder	General Experience (15% Max)	Specific Experience (20% Max)	Methodology and Approach (20% Max)	Qualification of Key Staff (30% Max)	Transfer of Knowledge (10% Max)	Local Input (5% Max)	Total Score (100%)
1.								
2.								
3.								
Pass Mark ; 80% (Applicable on the Total Score)								

Table 6.2: Quality-Based (Selection)

S/No	Bidder Name	Technical Score (obtained from Technical Evaluation)	Financial Bid Amount	Ranking	Remark
1.					
2.					
3.					
* Highest Technical Score wins					

Table 7.1: Price Schedule for Goods

1 S/No	2 Description of Item	3 Unit of Supply	4 Qty. of Units Required	5 Unit price	6 Total price (Col. 4 x 5)	7 Extra Price to deliver Goods to Final Destination	8 Total price Delivered (Col. 6 + 7)	9 VAT	10 Point of Delivery	11 Delivery Period Offered
1.										
2.										
3.										

Table 8.1: Computational Error

S/No	Description	Nature of Error Discovered	Original Amount Quoted	Correction			Diff. to be Deducted or Added $g = (c \pm f)$	BOQ Page
				Qty.	Unit Price	Amount (d x e)		
1.	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
2.								
3.								

Table 9.1: Corrections and Unconditional Discounts

S/No	Bidder	Read-out Bid Price(s) (₹)	Corrections		Corrected Bid Price(s) $e = (b + c) - d$	Unconditional Discounts		Corrected/discoounted Bid Price(s) $h = (e - g) + d$	Ranking
			Computational Errors	Provisional Sums		Percent %	Amount(s) $g = (f \text{ of } e)$		
1.	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
2.									
3.									

