



# **PROCUREMENT PROCEDURES GUIDELINES**

*For*

**PUBLIC PROCUREMENT**

*In*

**OYO STATE**

**BUREAU OF PUBLIC PROCUREMENT**

**SECOND EDITION**

**MAY 2020**

## **DEFINITIONS**

**“Approving Authority”** means the person charged with the responsibility for the functioning of a ministry, Extra-Ministerial Department, Corporation, or Parastatal;

**“Asset”** includes tangible and intangible things which have been or may be sold or procured for consideration;

**“Bid Security”** means a form of security assuring that the bidder shall not withdraw a bid within the period specified for acceptance and shall execute a written contract within the time specified in the bid;

**“Certificate of No Objection”** means the document evidencing and authenticating that due process and letters of this Law have been followed in the conduct of a procurement proceeding and allowing for the procuring entity to enter into contract or effect payments to contracts or suppliers from the Treasury;

**“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, individual, Sole Proprietor, Joint Stock Company, Joint Venture or any other legal entity through which business is conducted;

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

**“Excessive Price”** means a monetary value proposed by a bidder for any procurement which is in the estimation of the Bureau unreasonable and injudicious after consideration of the actual value of the items in question plus all reasonable imputation of cost and profit;

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

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

**“International Competitive Bidding”** means the solicitation of bids from both domestic and foreign contractors and suppliers;

**“Lowest Evaluated Responsive Bid”** is the lowest priced bid amongst the bids that met all the technical requirements and standards as contained in the tender document;

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

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

**“Negotiation”** means discussion to determine the terms and conditions of a contract or procurement;

**“Open Competitive Bidding”** means the offer of price 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 proceeding set out in parts IV and V of this Law;

**“Procuring Entity”** means any public body engaged in procurement and includes a Ministry, Extra-Ministerial Office, Government Agency, Parastatals and Corporation;

**“Public Procurement”** means any public body engaged in procurement and includes a Ministry, Extra-Ministerial Office, Government Agency, Parastatal, and Corporation;

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

**“Solicitation Documents”** means the bid solicitation documents or any other documents for solicitation of offers proposals or quotation;

**“Substantially Responsive”** means the response to bid solicitation which virtually answers to all the needs of a procuring entity as stipulated in the bid solicitation document;

**“Suppliers”** means a real or legal person that provides the supply of goods

**“Threshold”** refers only to the approval and not the actual process of award;

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

**“Works”** means all works associated with construction, reconstruction, demolition, repair or renovation of a building, structure of works, such as site preparation, excavation, erection, building installation of equipment or materials, decoration and finishing, as well as services incidental to equipment or materials, decoration and finishing, as well as services incidental to construction such as drilling, mapping, satellite photograph, seismic

investigation and similar services provided pursuant to the procurement of contract, where the value of those services does not exceed that of the construction itself;

**“Restitution”** means refund of the amount involved.

## **ABBREVIATIONS AND ACRONYMS**

APG	Advance Payment Guarantee
BoQ	Bill of Quantities
BEME	Bill of Engineering, Measurement and Evaluation
Bureau	Bureau of Public Procurement
CQ	Consultants Qualification (Selection Method)
DC	Direct Contracting
DPO	Due Process Office
FA	Force Account
GPN	General Procurement Notice
ICB	International Competitive Bidding
IFB	Invitation for Bid
IS	International Shopping
ITT	Invitation to Tender
LCS	Least Cost Selection
LIB	Limited International Bidding
MTB	Ministerial Tenders Board
NCB	National Competitive Bidding
NS	National Shopping
OYSHA	Oyo State House of Assembly
QBS	Quality Based Selection
QCBS	Quality, Cost Based Selection
REoI	Request for Expression of Interest
RFP	Request for Proposals
FBS	Fixed Budget Selection
SPN	Special Procurement Notice
SBD	Standard Bidding Document

## **INTRODUCTION**

The Government of Oyo State enacted the Oyo State Public Procurement Law 2010. The law provides the general rules governing public procurement. These Guidelines provide step-by-step procedures to assist procurement entities within the state to undertake public procurement in accordance with the law.

## **BACKGROUND**

Pursuant to the Law, the Oyo State Bureau of Public Procurement sets forth these Guidelines to provide for the policies, practice and procedure of public procurement in Oyo State.

The Guidelines recognize that sound public procurement policies and practices are one of the essential elements of good governance. Good practices reduce costs and produce timely results; poor practices lead to waste and delays and are often the cause of allegations of corruption and government inefficiency.

## **PURPOSE**

### ***Oyo State Public Procurement Law 2010 — Section 11***

This document is intended to give advice and assistance to procurement stakeholders to help them carry out their procurement responsibilities and it explains in more detail how specific aspects of procurement should be handled in line with applicable policies.

Where necessary, topics are cross-referenced to other relevant sections of the Guidelines and the Oyo State Public Procurement Law to enable a clearer understanding of the topics in issue.

## **BUREAU OF PUBLIC PROCUREMENT STATEMENT OF BUSINESS PRINCIPLES<sup>1</sup>**

These policies reaffirm the business principles that govern how the Bureau of Public Procurement and all Public Procurement Entities within the various State Ministries, Departments and Agencies shall conduct their affairs.

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<sup>1</sup> Adapted from the first section of the *Nigeria Procurement Procedures Manual for Public Procurement in Nigeria*.

Upholding and improving a reputation of a Procuring Entity with good business principles are paramount. We are judged by how we act and our reputation will be upheld if we act with honesty and integrity in all our dealings and we do what is right at all times within the legitimate role of governance.

We have as our core values honesty, integrity, transparency, accountability, fair competition, economy and efficiency, and value for money. We also firmly believe in the fundamental importance of the promotion of trust, openness, teamwork, professionalism, and pride in what we do.

These underlying values determine our principles and these principles apply to all transactions, large or small, and describe the behaviour expected of every public officer in the conduct of public procurement.

In turn, the application of these principles is underpinned by procedures which are designed to make sure that public officers fully understand the principles and that they act in accordance with them. We recognise that it is crucial that our behaviour matches our intentions.

The Bureau of Public Procurement recognises that maintaining the trust and confidence of stakeholders, public officers, contractors, civil society, development partners and other people with whom the government does business, as well as the communities in which we work, is crucial to our continued growth and success as a State.

The Bureau of Public Procurement and all Procuring Entities intend to earn this trust by acting according to the standards set out in our principles. These principles meet International Standards and it is the responsibility of The Bureau of Public Procurement and Accounting Officers in the MDAs to ensure that all officers and contractors doing business in all Oyo State Government establishments are aware of these principles, and behave in accordance with the spirit as well as the letter of this statement.

## **APPLICATION AND LIMITATIONS OF THE GUIDELINES**

The policies on public procurement are defined in the relevant laws and regulations governing procurement in Oyo State. This document provides procurement guidance and direction to all State Ministries, extra-ministerial offices, departments, agencies, parastatals, corporations and all other public entities set up by the Constitution or Act of the Oyo State House of Assembly and/or whose funding is derived in whole or in part from

the State Accounts or their own internally generated revenue for any type of procurement described in the Oyo State Public Procurement Law (2010). The principles, rules, and procedures outlined in these Guidelines apply to capital/recurrent expenditure and contracts for works, goods and services.

In the event that any public entities have their own procurement regulations and procedures, the implementation of the set regulations and procedures shall govern the such entities' procurement to the extent that they do not materially contravene the Oyo State Public Procurement Law 2010. These guidelines cover the standard procurement cycle from procurement planning and initiation of procurement to final delivery or performance and contract completion and disposal of assets. They will help to:

1. eliminate or minimize the need for making new decisions every time a comparable situation arises;
2. provide a point of reference against which principles and practices can be evaluated; and
3. serve as a training Guideline for procurement practitioners in the public sector and provide guidance based on best international practices.

Consistent application of the provisions and procedures of the Guidelines throughout the public service is essential to achieve improved efficiency, transparency, uniformity of documents and decisions and reduce cost of procurement for the Government.

It is intended that the Guidelines will be subjected to continuous review by the Public Procurement Authority to reflect amendments in legislation, changing needs, the commercial environment and the adoption of new improved procedures and practices.

## **GENERAL CONSIDERATIONS**

Procurement Entities are responsible for implementing their procurement activities at their respective levels. The procurement plan is time-bound and stakeholders are urged to act expeditiously in exercising their powers and discharging their responsibilities. These Guidelines are intended to regulate procurement for works, goods and services contracts across the State with the preferred method being Open Competitive bidding and the use of alternative methods being strictly limited and subject to the approval of the Bureau of Public Procurement.

The following principles shall guide procurements undertaken under these Guidelines:

- Competitiveness
- Accountability
- Transparency
- Fairness
- Value for money in the procurement process and
- Economy and efficiency in the implementation of projects.

## **EXCEPTIONS TO GUIDELINES**

Exceptions to the provisions of these Guidelines may arise in certain situations:

1. A special circumstance, such as an extreme emergency;
2. One-off requirements introduced as special provisions in a loan or credit facility which are not otherwise covered in these Guidelines, and do not constitute a revision of the Guidelines;
3. The necessary use of non-standard bidding documents for specialised procurements;
4. New legislation or government policy change which causes any part of these guidelines to be inconsistent with the new provisions until an appropriate revision has been approved.

Exceptions should normally be of a short-term and one-off nature. Where they are recurrent, then the Oyo State Bureau of Public Procurement shall decide whether it is necessary to introduce revisions in the Guidelines to reflect the necessary provisions in the Guidelines. Where an exception is considered essential, the Head of the Procurement Entity may submit a formal request to the Oyo State Bureau of Public Procurement detailing the circumstance and including a full justification. The Bureau of Public Procurement may respond to such requests by issuing a specific waiver or rejecting the request. Exceptions and waivers granted shall be carefully reviewed in the monitoring activities of the Bureau of Public Procurement and shall be subject to audit. The Bureau of Public Procurement shall review all requests for exceptions to determine whether the relevant provisions in the Guidelines need to be amended.



## **REVISIONS TO THE GUIDELINES.**

### **Reasons for Revision:**

Certain factors may necessitate the revision of these Guidelines including:

1. New legislation;
2. Policy changes by government or funding bodies;
3. Introduction of new improved practices, policies or procedures;
4. Removal of outdated practices, policies or procedures; and
5. Lessons gained from practical experience.

### **Request for Revision by a Procurement Entity:**

Where a revision to the Guidelines is deemed necessary by a Procurement Entity, a formal request may be submitted to the Bureau of Public Procurement in accordance with the following procedures:

1. The request shall be prepared and approved by the relevant Procurement Committee, and authorized by the Head of the Procurement Entity.
2. The request shall state the purpose of the revision and provide a comprehensive justification, together with the precise changes suggested to the relevant text of the Guideline.
3. The Bureau of Public Procurement shall formally consider each request, seek legal and procurement practice advice and may agree to a general modification of the Guidelines, a specific exemption to be granted to the requesting procurement entity or may reject the request giving reasons.

## USE OF STANDARD PROCUREMENT FORMS.

To assist in the adoption and use of standard practices and procedures in public sector procurement, the following standard procurement documents are introduced in these Guidelines.

The standard procurement documents are:

- Standard Prequalification Documents (Goods and Works)
- Procurement Plan for Goods, Works and Consultancy Services
- Invitation for Bids (Goods)
- Invitation for Bids (Works)
- Request for Expression of Interest
- Request for Proposals
- Request for Quotations
- Standard Bidding Documents (Goods)
- Standard Bidding Documents (Works)
- Standard Evaluation Report

Soft copy of templates may be obtained at the Bureau or online at

## WHY IS SOUND PUBLIC PROCUREMENT SO IMPORTANT?<sup>2</sup>

**Public procurement** is the use of *public funds* by public entities for the delivery of public goods, works and services usually through a third party (Contractor).

It encompasses a sequence of related activities starting with assessment of needs through to Contract award to Contract management and then final payment.

Investments, both in physical infrastructure and in strengthened institutional and human capacities, lay foundations for development of state. In procurement terms, such investments are generally grouped into three categories:

1. Civil works - for example, bridges and buildings, highways and basic physical infrastructure;
2. Goods - typically equipment, material and supplies, commodities, books, medical supplies; and

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<sup>2</sup> Adapted from the first section of the *Nigeria Procurement Procedures Manual for Public Procurement in Nigeria*.

3. Services - expert advice and training, as well as other forms of consultancy services.

The quality, timeliness, suitability and affordability of those procured inputs can largely determine whether the public investments will succeed or fail. Procurement costs can be substantial, consuming scarce resources of tightly constrained government budgets. Moreover, the process also consumes scarce skilled public-sector human resources. It takes time, not merely for procurement planning and contracting but also for contract supervision and execution.

There are five basic concerns that govern procurement policies:

1. To ensure that goods and services needed are procured with due attention to economy and efficiency;
2. To ensure that public funds are used to buy only those goods and services needed for national development;
3. To give all qualified bidders an equal opportunity to compete for contracts;
4. To encourage development of local contractors and manufacturers; and
5. To ensure that the procurement process is transparent.

The procurement policies and procedures contained in these Guidelines have been designed to promote fairness and equal treatment.

### **What Is Good Public Procurement? What Does It Look Like?**

The principal hallmarks of proficient public procurement are listed below. A good way to remember this is to memorize elements of the word “FEATER”, meaning:

- F** – Fairness;
- E** – Economy;
- A** – Accountability and Ethical Standards;
- T** – Transparency;
- E** – Efficiency; and
- R** – Reliability.

***Fairness:*** Good procurement is impartial, consistent, and therefore reliable. It offers all interested contractors, suppliers and consultants a level playing field on which to compete and thereby, directly expands the purchaser's options and opportunities.

***Economy:*** Procurement is a purchasing activity whose purpose is to give the purchaser best value for money. For complex purchases, value may imply more than just price, for example, since quality issues also need to be addressed. Moreover, lowest initial price may not equate to lowest cost over the operating life of the item procured. But the basic point is the same: the ultimate purpose of sound procurement is to obtain maximum value for money.

***Accountability and Ethical Standards:*** Good procurement holds its practitioners responsible for enforcing and obeying the rules. It makes them subject to challenge and to sanction, if appropriate, for neglecting or bending those rules. Accountability is at once a key inducement to individual and institutional probity, a key deterrent to collusion and corruption, and a key prerequisite for procurement credibility.

***Transparency:*** Good procurement establishes and then maintains rules and procedures that are accessible and unambiguous. It is not only fair, but it is seen to be fair.

***Efficiency:*** The best public procurement is simple and swift, producing positive results without protracted delays. In addition, efficiency implies practicality, especially in terms of compatibility with the administrative resources and professional capabilities of the purchasing entity and its procurement personnel.

***Reliability:*** Bidders, and all other stakeholders, must be able to rely on any information disseminated by the procuring entity, formally or informally. The integrity of the procurement process assures confidence in the public procurement system. Whenever bidding documents are made publicly advertised, the information they contain must be dependable and free of ambiguities or bias. Also, bidders should have a clear understanding of what is required of them, and know how they will be evaluated.

A sound procurement system is one that combines all the above elements. The desired impact is to inspire the confidence and willingness-to-compete of well-qualified vendors. This directly and concretely benefits the purchasing entity and its constituents, responsive contractors and suppliers, and donor agencies providing project finance.

Conversely, a procurement system that fails to take the above elements stimulates hesitation to compete, submission of inflated bids containing a risk premium, or submission of deflated bids followed by delayed or defective performance. Other direct results include collusion in bribery by frustrated or unscrupulous vendors and purchasing entities, bad value for those entities and their constituents, and betrayal and abuse of the public trust for personal gain.

**QUICK REFERENCE: PROCESSES AND RELEVANT DOCUMENTS IN  
PUBLIC PROCUREMENT IN OYO STATE.**

<b>SOLICITATION METHOD</b>	<b>WHEN TO BE APPLIED</b>	<b>RELEVANT DOCUMENTS</b>	<b>STEP-BY-STEP GUIDE</b>
Open Competitive Bidding (OCB)	This is the standard procurement method for goods, works and services. All other solicitation alternatives are to be used upon approval of the BPP following requests supported with relevant and strong justifications.	<ul style="list-style-type: none"> <li>- Invitation to Bid (ITB)</li> <li>- Expression of Interest (EOI)</li> <li>- Request for Quotation/Proposal (RFQ/RFP)</li> <li>- Standard Bid Evaluation Report (SBER)</li> </ul>	<ul style="list-style-type: none"> <li>- The Procuring Entity identifies a need. Such needs would usually be in the procurement plan for the year.</li> <li>- The Procuring Entity ensures that there is budgetary support for that need.</li> <li>- Approvals are sought and obtained in line with the thresholds.</li> <li>- The Procuring Entity also obtains approval for funds required for advertisement in 2 National dailies.</li> <li>- The Procuring Entity prepares an IFB using the standard template and obtains the clearance of the BPP to publish the advertisement.</li> <li>- Immediately after the expiration of the bidding period, the bids are opened.</li> <li>- Bids are usually sealed (secret) and opened during a 'Bid Opening' where the Procurement team opens the bids in front of all the suppliers on a certain day and time to ensure transparency and the figures, discounts (if any) are announced</li> <li>- Bids submitted after the stipulated period are to be rejected and returned without being opened.</li> </ul>

			<ul style="list-style-type: none"> <li>- Bids are evaluated using only the criteria provided in the IFT/IFB.</li> <li>- The Standard Evaluation Report is presented to the BPP for review along with a request for a Certificate of “No Objection”</li> <li>- Depending on the value of the procurement, and in line with the contract award thresholds, a contract awarding authority then ratifies and award the contract to the qualified contractor</li> </ul>
Selective Tendering /Restricted Tendering	<p>Used for the procurement of services, goods and works where:</p> <ul style="list-style-type: none"> <li>- The value of the goods/works needed does not justify the expense to be incurred in OCB e.g. advertising in 2 National dailies.</li> <li>- The procurement is urgent and need prompt action.</li> </ul>	<ul style="list-style-type: none"> <li>- Invitation to Bid (ITB)</li> <li>- Request for Proposal (RFP)</li> <li>- Request for Quotation (RFQ)</li> </ul>	<ul style="list-style-type: none"> <li>- The Procuring Entity identifies a need. Such needs would usually be in the procurement plan for the year.</li> <li>- The Procuring Entity ensures that there is budgetary support for that need.</li> <li>- Approvals are sought and obtained in line with the thresholds.</li> <li>- The Procuring Entity also obtains approval from BPP to use Selective/Restrictive Tendering method of procurement.</li> <li>- The Procuring Entity prepares an RFQ/RFP using the standard template and invites at least 3 contractors to submit quotation/proposal.</li> <li>- The Procuring Entity then sends a request to BPP to issue Certificate of No Objection.</li> <li>- Depending on the value of the procurement, and in line with the contract award thresholds, a</li> </ul>

			contract awarding authority then ratifies and award the contract to the qualified contractor
Single Source Selection/Direct Contracting	<p>Used for the procurement of services, goods and works where:</p> <ul style="list-style-type: none"> <li>- It is an emergency situation.</li> <li>- Items/Services to be procured are available from only one source.</li> <li>- For the continuation of previous or additional work, that cannot be acquired from another firm or individual due to patent, compatibility issues, or exclusive rights.</li> <li>- When the use of this method represents a clear advantage over the use of a competitive method.</li> <li>- when only one firm or individual is qualified to fulfil the requirement.</li> </ul>	<ul style="list-style-type: none"> <li>- Request for Proposal (RFP)</li> <li>- Request for Quotation (RFQ)</li> </ul>	<ul style="list-style-type: none"> <li>- The Procuring Entity identifies a need. Such needs would usually be in the procurement plan for the year.</li> <li>- The Procuring Entity ensures that there is budgetary support for that need.</li> <li>- Approvals are sought and obtained in line with the thresholds.</li> <li>- The Procuring Entity also seeks approval from BPP to use Single Source method.</li> <li>- The Procuring Entity prepares an RFQ/RFP using the standard template and invites the identified contractor to submit quotation.</li> <li>- The Procuring Entity then sends a request to BPP to issue Certificate of No Objection.</li> <li>- Depending on the value of the procurement, and in line with the contract award thresholds, a contract awarding authority then ratifies and award the contract to the qualified contractor.</li> </ul>





## SECTION I

### OVERVIEW OF THE PROCUREMENT PROCESS

There are a number of steps that must be taken when procuring public goods, services, or works in Oyo State. These steps apply to all procurement by Oyo State Government and all of its Ministries, Departments, Agencies, and other publicly funded entities.

However, these steps do not apply to any procurement related to public security, unless otherwise approved by the Executive Governor.

The steps are briefly summarized below and discussed in detail in a later section.



#### Phase I: Planning and Preparation

1. Have a Procurement Plan: A procurement plan is a document which shows the Procurement Entity's needs for each financial year. Each Procuring Entity shall prepare and submit a plan which shall be submitted to the Bureau of Public Procurement for approval. This approval shall be obtained prior to the budgetary approval for each financial year.
2. Check the Budget: Ensure that the procurement plan is backed up by the procuring entity's budget and available funds.
3. Create a File: All aspects of the procurement process must be documented to facilitate later review. It is important to note that all documents shall be in English Language. It is the responsibility of the Accounting Officer to ensure that the records of the entity's procurement proceedings are well kept.

4. Invite External Observers: A representative of the civil society and a representative of the business community should be invited to observe all aspects of the procurement process.
5. Prequalify Bidders: Where applicable, the procuring entity will request applications demonstrating basic qualifications ahead of the bidding process.
6. Establish the Basic Criteria for a Contract: Set out the parameters for what needs to be accomplished and what qualities a contractor would need to achieve the procurement goals. The criteria stipulated as the basis upon which suppliers or contractors would be evaluated shall not be changed in the course of any procurement proceeding.
7. Where it is feasible to formulate detailed specification for the goods or works or to identify specific characteristics (in the case of procurement of services), the procuring entity must also include documents such as Bill of Quantities (BoQ) and Bill of Engineering, Measurement and Evaluation (BEME) in the associated procurement file.
8. For the procurement of goods, the procuring entity must state the full specifications of the items to be purchased and forward the specifications to the Bureau of Public Procurement prior to advertisement.
9. Select the Solicitation Method for Procurement: Identify whether the criteria can be met through the standard open competitive bidding process, or if there are special circumstances that allow or require a different type of procurement process.

## **Phase II: Solicitation**

1. Publish or Distribute the Request for Bids: Based on the selected solicitation method, the procuring entity may issue an Invitation to Bid (ITB) either through two newspaper publications or directly to selected contractors. Upon notice of the ITB, contractors should obtain bidding documents outlining the requirements for any proposal or quotation from the procuring entity, or as described in the invitation.
2. Receive Bids: Applicants submit their best proposals to the procuring entity before the deadline for submission of bids. Bids should be submitted in the location as stipulated in the bidding documents. The procuring entity must issue a receipt showing the date and the time the bid was received by the procuring entity. All received bids should be deposited in a secured tamper-proof bid box.

## **Phase III: Review**

1. Open Bids: All bids are opened in a public gathering immediately after the deadline for submission.
2. Examine Bids: The procuring entity checks all bids for basic compliance with the terms of the bidding documents.

3. Evaluate Bids: The procuring entity evaluates the technical and financial aspects of the bids/proposals, ranks the bids according to responsiveness to the request, verifies that bidders comply with all criteria, and selects a winning applicant.
4. Obtain Necessary Approvals: Based on the threshold matrix, obtain all necessary certifications, approvals, and ratifications for the Award.

#### **Phase IV: Award and Implementation**

1. Award the Procurement Contract: A Notification of Award is issued to the successful bidder. The bidder responds with an acceptance letter and thereafter a Letter of award is issued and a contract is signed.
2. Publish the Results: The procuring entity must announce the winner of the bid once it is decided, and unsuccessful bidders have 10 working days from that announcement in which to file a complaint.
3. Payment: The first payment should be made as a mobilization fee, if applicable. mobilization fee shall be a maximum of 30% and 60% of the contract sum for works and supplies, respectively. Subsequent payments shall be made according to the payment schedule outlined in the contract.
4. Monitor Implementation: The procuring entity should ensure that the terms of the contract are being fulfilled throughout the life of the contract.

#### **PROCUREMENT THRESHOLD MATRIX**

The larger a procurement is, the higher its value and the greater the risk it carries. For this reason, extra layers of oversight and approval are provided for as the contract amount increases.

All procurement requests are to be approved by the Executive Governor unless stated otherwise in the Procurement Threshold Matrix as shown in the table below which outlines the ranges of contract amount for each level of oversight and approval.

These procurement thresholds may be reviewed from time to time by the State Council on Public Procurement. The amounts listed in the table below are derived from the Oyo State Public Procurement Guidelines and are accurate as of September 2019.

<b>Value of procurement</b>	<b>Involved bodies</b>	<b>Authorization/Approval</b>
Below ₦1m	<ul style="list-style-type: none"> <li>— Accounting Officer</li> <li>— Bureau of Public Procurement</li> <li>— Deputy Governor</li> </ul>	The Accounting Officer ensures that the procurement need is identified, creates a file for the procurement as well as relevant memos and documents.

Value of procurement	Involved bodies	Authorization/Approval
	<ul style="list-style-type: none"> <li>— Secretary to the State Government</li> <li>— Chief of Staff</li> <li>— Head of Service</li> </ul>	<p>The Bureau of Public Procurement must review and certify the procurement decision.</p> <p>Expenditures of parastatals and Office of the Deputy Governor less than or equal to Two Hundred and Fifty Thousand Naira (₦250,000.00) are subject to approval of the Deputy Governor.</p> <p>Expenditures of Ministries, Departments and Agencies not exceeding Two Hundred Thousand Naira only (₦200,000.00) are subject to approval of the Secretary to the State Government.</p> <p>Expenditures not exceeding Two Hundred Thousand Naira only (₦200,000.00) for all political Aides of the Executive Governor are subject to approval of the Governor's Chief of Staff.</p> <p>Expenditures not exceeding Two Hundred Thousand Naira (₦200,000.00) relating to service matters and establishment issues are subject to approval of the Head of Service.</p>
₦1m to ₦4,999,999.00	<ul style="list-style-type: none"> <li>— Accounting Officer</li> <li>— Procurement Planning Committee</li> </ul>	<p>The Accounting Officer ensures that the procurement need is identified, creates a file for the procurement as well as relevant bidding documents.</p>

<b>Value of procurement</b>	<b>Involved bodies</b>	<b>Authorization/Approval</b>
	<ul style="list-style-type: none"> <li>— Bureau of Public Procurement</li> <li>— Ministerial/Parastatal Tenders Board</li> <li>— Executive Governor</li> </ul>	<p>Procurement Planning Committee or procurement unit for respective MDAs must ensure that all stages of the procurement proceeding satisfy the requirements for public procurement in Oyo state as outlined in the law and guidelines.</p> <p>The Bureau of Public Procurement must review and certify the award decision.</p> <p>Subject to the approval of the Executive Governor, the procurement is considered and approved by the Procuring entity's Ministerial or Parastatal Tenders Board.</p> <p>Contract is awarded</p>
<del>₦</del> 5m to <del>₦</del> 50m	<ul style="list-style-type: none"> <li>— Accounting Officer</li> <li>— Procurement Planning Committee</li> <li>— Bureau of Public Procurement</li> <li>— State Tenders Board</li> <li>— Executive Governor</li> </ul>	<p>The Accounting Officer ensures that the procurement need is identified, creates a file for the procurement as well as relevant bidding documents.</p> <p>Procurement Planning Committee or procurement unit for respective MDAs ensure that all stages of the procurement proceeding satisfy the requirements for public procurement in Oyo state as outlined in the law and guidelines.</p> <p>The Bureau of Public Procurement must review and certify the award decision.</p> <p>Procurement is considered and approved by the State Tenders Board.</p>

Value of procurement	Involved bodies	Authorization/Approval
		<p>Procurement is subject to the Executive Governor's approval.</p> <p>Contract is awarded</p>
Above ₦50m	<ul style="list-style-type: none"> <li>— Accounting Officer</li> <li>— Procurement Planning Committee</li> <li>— Bureau of Public Procurement</li> <li>— State Executive Council</li> <li>— Executive Governor</li> </ul>	<p>The Accounting Officer ensures that the procurement need is identified, creates a file for the procurement as well as relevant bidding documents.</p> <p>Procurement Planning Committee or procurement unit for respective MDAs ensure that all stages of the procurement proceeding satisfy the requirements for public procurement in Oyo state as outlined in the law and guidelines.</p> <p>The Bureau of Public Procurement must review and issue a certificate of “no objection” to the award.</p> <p>The State Executive Council considers and approves the contract to the winning bidder.</p> <p>Proposed contract must be endorsed by the Executive Governor before presentation to the Council.</p> <p>Contract is awarded.</p>





## THRESHOLDS FOR THE CONSIDERATION AND AWARD OF CONTRACTS

<b>Approving Authority</b>	<b>Current Thresholds</b>	<b>Thresholds for Goods</b>	<b>Thresholds for Works</b>	<b>Thresholds for Consultant Services</b>	<b>Thresholds for Non-Consultant Services</b>
<b>Executive Governor/ State Executive Council</b>	N50M and above	N100M and above	N100M and above	N100M and above	N100M and above
<b>Executive Governor/ State Tenders Board</b>	N5M - N50M	N10M - N50M	N10M - N50M	N10M - N50M	N10M - N50M
<b>Ministerial/ Parastatal Tenders Board</b>	N1M – N4,999,999M	N5M – N10M	N5M – N10M	N5M – N10M	N5M – N10M
<b>Deputy Governor</b>	N250,000	N1M – N4,999,999M	N1M – N4,999,999M	N1M – N4,999,999M	N1M – N4,999,999M
<b>Secretary to State Government</b>	N200,000	N1M	N1M	N1M	N1M
<b>Head of Service</b>	N200,000	N1M	N1M	N1M	N1M

## **SECTION II: ROLES AND RESPONSIBILITIES OF GOVERNMENT ORGANS IN THE PROCUREMENT PROCESS**

### **Supreme Bodies**

#### **The Executive Governor**

- **Appointments:** The Executive Governor is responsible for appointing the members of the State Central Procurement Board as well as the Director General and principal officers of the Bureau of Public Procurement.
- **Ratifying contracts:** The Executive Governor shall ratify contracts as stated in the procurement threshold matrix.

#### **The State Executive Council**

- **Ratifying contracts:** The State Executive Council shall review and ratify contracts as indicated in the threshold matrix.

#### **The Oyo State House of Assembly**

- **Legal framework for procurement:** The Oyo State House of Assembly (OYSHA) passes legislation governing public procurement to which all executive bodies must adhere.
- **Oversight:** The OYSHA may call on any executive official to question him or her about the implementation of public procurement laws, and that executive official must appear before the assembly and provide truthful and accurate testimony. The House may also convene hearings to invite public testimony about procurement processes.

### **Executive Oversight Bodies**

#### **The State Council on Public Procurement**

- **Frequency of meetings:** The Council must meet at least twice per year, but the Chairman can call meetings as necessary.
- **Setting procurement policies:** The Council sets the State's guiding procurement policies, including the following:
  - a. **Procurement thresholds:** The Council periodically reviews the monetary and prior review thresholds, as laid out in the procurement threshold matrix.
  - b. **New technologies:** The Council approves any updates to the procurement procedures to take advantage of new technologies (such as setting policies about e-bidding).

- c. **General policies:** The Council reviews and approves any other policies on public procurement that are necessary to achieve transparent and rigorous procurement practices.
- **Oversight of procurement bodies:** The council may also review the functions and activities of the Ministerial and Parastatal Tender Boards.
- **Approving new procurement entities:** The council approves the creation of any new procurement entities that are proposed by the Bureau of Public Procurement.

### ***Composition of the State Council on Public Procurement***

All members of the State Council on Public Procurement are appointed by the Executive Governor.

The Council consists of:

1. The Commissioner for Finance – Chairman of the Council,
2. The Commissioner for Budget and Planning
3. The Attorney-General and Commissioner for Justice,
4. The Secretary to the State Government or a representative,
5. The Head of Service or a representative,
6. Six part-time members representing the following professional bodies and private sector groups:
  - a. Nigeria Bar Association,
  - b. Oyo State Chartered Institute of Purchasing, Supply and Management of Nigeria,
  - c. Nigeria Society of Engineers,
  - d. Civil Society,
  - e. The Media
7. The Director-General of the Bureau of Public Procurement who shall be the Secretary of the Council.

### **The Bureau of Public Procurement**

The Bureau of Public Procurement, headed by the Director General is responsible for the following:

1. **General policy:** The Bureau of Public Procurement formulates the general policies by which procurement entities operate. This includes formulation, periodic review, and dissemination to all relevant stakeholders of regulations, guidelines, directives, instructions, technical notes, and manuals. It sets guidelines related to the composition, functions, powers, and procedures of all procurement boards. The Bureau is responsible for harmonizing all government policies and practices on public procurement such that all procurement entities follow the same guidelines.
2. **Pricing:** The Bureau of Public Procurement establishes pricing standards and benchmarks.

3. **Reviewing contracts:** The Bureau must ensure probity, accountability, and transparency in all procurement processes.
4. **Approving payments:** Before any payment can be made for contracts, the Bureau of Public Procurement must issue a certificate of "No Objection" based on whether the contractor has delivered according to the contract terms and provisions.
5. **Keeping records:** The Bureau should maintain all records related to the procurement process, such as the following:
  - i. A list of all procurement entities in the state.
  - ii. A database of suppliers, contractors, and service providers, including contact details and relevant information about the areas in which they work.
  - iii. A list of debarred suppliers.
  - iv. A standard database of prices based on actual cost goods and services in Oyo State.
  - v. Electronic and paper copies of all editions of the procurement journal produced and published by the Bureau of Public Procurement.
    - a. The journal should include but not limited to: details of major contracts existing and ongoing within the State, proposed procurement notices, notices of Invitation to Bid, Contract award information, Milestone completion of ongoing projects, list of debarred firms.
  - vi. Archives of all procurement plans, and other information covered by the procurement law.
6. **Developing materials:** The Bureau should create, distribute, and periodically update standard materials and templates for the procurement process, including:
  - Contract templates
  - Bidding documents templates
  - Pre-qualification documents
  - Sample requests for proposals and other relevant documents
7. **Research and advice:** The Bureau undertakes research and surveys to improve procurement practices and assess the socio-economic effects of procurement policies. Using this information and analysis, the Bureau of Public Procurement advises the Executive Governor and the State Council on Public Procurement on reforms or steps that should be adopted to improve the process and its results.

The Bureau of Public Procurement may also carry out surveys before undertaking procurement to obtain information about service beneficiaries' satisfaction with the current system and their opinions and needs regarding the new one. Service

beneficiaries include the public for public goods (for example, students or community residents) and staff of the MDA if the procurement is for internal use.

8. **Monitoring:** The Bureau monitors the procurement activities of all procuring entities to ensure compliance with applicable regulations and best practices. The Bureau may also perform procurement audits periodically.

9. **Control and sanction:** The bureau should prevent fraudulent and unfair procurement practices wherever possible, and it must act on any complaints received against procurement entities.

To fulfil this responsibility, the Bureau will undertake a thorough review of all documents accompanying the request for certification by MDAs to generate the Due Process report. The report will address the following issues:

- a. If the project is justified and of economic or social priority;
- b. If it will improve the efficiency or performance of operations at completion;
- c. If it is line with government overall policy, laws and regulations;
- d. If it has been technically and financially appraised and feasibility study has been undertaken where necessary;
- e. If it has complied with the proper procurement award process, such as competitive bidding, selection of best-evaluated bid with costs in conformity with comparable local and international best practices.

In order to ensure this, the Bureau of Public Procurement undertakes three stages of project review, which are; project planning and preparation, project procurement and award, as well as project implementation. To this end, MDAs are required to forward the following documents to the Bureau for a full Due Process review leading to certification of award

- a. Evidence of advertisement for invitation to bid/pre-qualification
- b. Pre-qualification documents (where applicable)
- c. Letter of invitation to bid (where applicable)
- d. Project design and drawings (for supply procurements, specification and cost estimate)
- e. Bid documents
- f. Bid return sheet duly signed by all bidders
- g. Bid evaluation report
- h. Consultant's/Engineer's estimates for the project
- i. Milestones and timelines for the execution of the project including the duration and expected date(s) of delivery of the project
- j. Appropriation/Budget provision for the project

## **Operational Bodies**

Every procuring entity must have a Tenders Board. Specific compositions and tasks of the various Tenders Boards are described below. However, all Tenders Boards have the following responsibilities related to awarding contracts within the threshold matrix:

1. Vetting bid documents and notices submitted to it by the procuring entity
2. Receiving and publicly opening bids
3. Selecting firms or persons to be awarded contracts
4. Awarding procurement contracts
5. Establishing a technical evaluation committee that is chaired by the board secretary to evaluate bids
6. Communicating all decisions to the accounting officer and any other relevant authority
7. Submitting procurement documents to the Bureau of Public Procurement for vetting and certification prior to award of contract

## **The State Tenders Board**

- i. **Meetings and decision-making:** The State Tenders Board may meet as often as necessary; the chairperson plus four members constitutes a quorum (adequate number of persons to make a decision). Decisions are made by a simple majority of the present and voting members. If the votes are tied, the officer chairing the meeting can cast the deciding vote.
- ii. **Reviewing contracts:** The State Tenders Board manages and executes the following tasks during the procurement process for all contracts as indicated in the threshold matrix:
  - vets all bidding documents and notices that are submitted by MDAs,
  - receives and publicly opens the submitted bids,
  - selects the evaluators for the bids,
  - oversees the examination and the evaluation process,
  - reviews the recommendations of the bid evaluation committee,
  - approves the award or requests further evaluation, and
  - Arbitrates between MDAs and bidders if there are disputes or appeals about the process.
- iii. **Maintaining a list of evaluators:** The State Tenders Board should maintain a list of qualified and independent evaluators so that it can suggest evaluators for bid review.
- iv. **Approving Contracts:** The State Tenders Board ratifies contracts as indicated in the threshold matrix.
- v. **Notifying the Executive Governor:** The State Tenders Board must notify the Executive Governor once per week about all contracts as indicated in the threshold matrix.

- vi. **Reporting irregularities:** The State Tenders Board must report all cases of contravention of the law and public procurement process to the Head of Service (for civil servants) and to the Executive Governor (for political appointees).

The State Tenders Board may also request technical or professional assistance from anyone within the MDAs.

***Composition of the State Tenders Board***

- Secretary to the State Government – *Chairman*
- Deputy Chief of Staff
- Commissioner for Finance
- Commissioner for Budget & Planning
- Commissioner for Justice
- Commissioner for Works, Transport & Infrastructure
- Director-General of the Bureau of Public Procurement
- Permanent Secretary (Cabinet) – *Secretary (no voting rights)*
- Other expert advisors may be called on from time to time but have no voting rights.

All board members are appointed by the Executive Governor.

**Ministerial/Parastatal Tenders Board**

Every procuring entity in Oyo State must have a Ministerial/Parastatal Tenders Board responsible for the award of procurement of goods, works and services within the set threshold. The Boards oversee the activities of the procurement planning committee in their respective MDAs and communicates the results to the Commissioner for implementation.

***Composition of the Ministerial/Parastatal Tenders Board***

- Permanent Secretary – *the Chairman*
- Head of procurement/planning, research and statistics – *the Secretary*
- Heads of departments within the Ministry

**Other stakeholders within each procuring entity**

**Accounting Officer**

Every procuring entity must have an accounting officer with ultimate responsibility for and supervision over the entity's procurement process, including planning, organization, evaluation of bids, and execution of all procurement. He or she must ensure the procurement law is followed, approve all procurement board decisions, and is responsible and accountable for any actions that are taken or omitted. In Ministries, the accounting

officer is the Permanent Secretary; in all other parastatals, he or she is the Commissioner or someone of equivalent position.

The accounting officer must ensure that the procuring entity's annual budget contains all necessary procurement expenditures and that the state's annual budget contains sufficient funding for the needed procurements.

He or she appoints the members of the committees described below.

### **Procurement Planning Committee**

The planning committee prepares a needs assessment and evaluation document as it identifies the goods, works, or services required. Once the need is identified, the planning committee carries out appropriate market and statistical surveys. Using this research, the committee prepares an analysis of the cost implications of procuring the item(s).

Where possible, planning committees should combine procurements, both within their own entity and between their procuring entity and others, to achieve savings and cost efficiency.

#### ***Composition of a Procurement Planning Committee***

- The accounting officer or his representative – *the Chairman*
- A representative of the procuring entity's procurement unit – *the Secretary*
- Representative of the Ministry of Justice
- Representative of the planning, research, and statistics unit of the procuring entity
- Representative of the finance and administration or equivalent department
- A representative of the unit directly in requirement of the procurement
- Personnel of the procuring entity with technical expertise in the subject matter for each specific procurement.
- A representative of the Bureau of Public Procurement

Decisions are made by a majority of the present and voting members. If the votes are tied, the officer chairing the meeting can cast the deciding vote.

### **Procurement Evaluation Committee**

A technical evaluation committee should be established by the accounting officer to evaluate bids; the Secretary of the entity's Tenders Board is the Chair of this committee. The evaluation committee should be composed of at least three or four individuals with expertise in procurement and/or the technical area of the good, service, or work being procured. The entity's Tenders Board shall maintain a list of qualified evaluators that can constitute this committee.

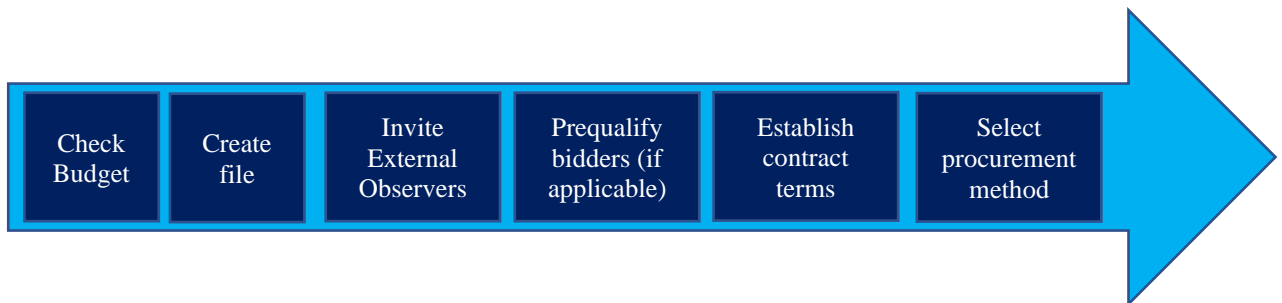


### SECTION III: The Procurement Process



#### Phase I: Planning and Preparation

Typical steps to be taken when planning and preparing for a procurement project are outlined below:



#### 1. Ascertain Budget Provision

All procurement in the state must be based only on procurement plans supported by the budget for the financial year. The Accounting Officer should also ascertain the availability of funds to meet the procurement obligations.

#### 2. Create Project File

A file (electronic and/or paper) should be created to keep records for each procurement project. This file should contain all communications and deliberations about the procurement process.

The procuring entity shall make these files available to the Bureau of Public Procurement for review.

Other information to be contained in the file include:

- a. Information about the procuring entity and the contractors
- b. Summary of the procurement project; description of goods, works or services to be procured
- c. The relevant IPSAS/Economic code, the allocated amount and the available balance.
- d. Date of the contract award
- e. Value of the contract
- f. Detailed records of the various stages of the procurement proceedings

### **3. Invite External Observers**

The procuring entity must invite two (2) credible members of the public to observe every step of the procurement proceeding. Observers should be invited in writing at least three (3) working days before commencement of bid activity.

One of the observers should be a representative of a recognized private sector professional organization relevant to the specific procurement; while the other should represent a non-governmental organization with relevant activities in transparency, accountability and anti-corruption areas.

The observers will not intervene directly with the procurement proceeding, but will have the right to submit their reports to the Bureau of Public Procurement and any relevant agency or body, including their own organizations or associations.

### **4. Prequalify Bidders** (*where applicable*)

A procuring entity may request that interested contractors or service providers submit applications to pre-qualify for a specific procurement where the procuring entity has decided on the minimum qualifications of suppliers, contractors or service providers to be considered for executing a procurement.

The criteria for pre-qualification shall be set out in the prequalification documents and only such criteria as are highlighted in the prequalification documents shall be applied in reaching a decision of which supplier, contractor or service provider qualifies.

Pre-qualification documents should include, but are not limited to the following:

- a. Instructions to prepare and submit prequalification application;
- b. A summary of the main terms and conditions required for the procurement contract to be entered into as a result of the procurement proceedings;
- c. Documentary evidence or other information that must be submitted by the suppliers, contractors or consultants to demonstrate their qualifications;
- d. The manner and place for the submission of applications to prequalify and the deadline for the submission, expressed at a specific date and time. The

deadline should allow sufficient time for suppliers, contractors and consultants to prepare and submit their applications taking into account the reasonable need of the procuring entity, as any bid received after the deadline for submission shall be rejected; and

- e. Any other requirement that may be established by the procuring entity in conformity with the Oyo State Public Procurement Law and general procurement regulations.

Prequalification is not generally needed for the procurement of ordinary goods or smaller contracts, such as vehicles and computer equipment.

Whenever prequalification is being carried out, it is important to ensure the following:

- **Cost of application:** Pre-qualification application documents may not be sold. However, the procuring entity may charge a fee to cover the administrative cost of printing and providing these documents.
- **Questions and clarification of documents:** An applicant may request clarification of the prequalification documents not less than 10 or more days before the deadline. The procuring entity must respond within a reasonable timeframe (no more than seven working days). The responses to any requests that would interest other applicants should be shared with all other applicants, but the name of the original requestor should not be revealed.
- **Announcement of results:** The procuring entity must promptly notify all applicants whether they have been pre-qualified and publish the list of the suppliers, contractors, or consultants that have been prequalified. Unsuccessful applicants must be informed of the reasons for disqualification.
- **Renewal of pre-qualification:** At any time, the procuring entity may request that a pre-qualified supplier, contractor, or service provider again demonstrate its qualifications using the same criteria as before. Any supplier, contractor, or service provider not meeting these criteria will be disqualified. The procuring entity must promptly notify the applicant of the success or failure of its renewal application.

## 5. Establish the Basic Criteria for a Contract

In order to ensure a fair, transparent, and systematic procurement process, the procuring entity should firstly define the criteria needed for the procurement to be successful, such as:

- Timeframe for project completion
- Compulsory qualifications for successful bidders
- Documentary evidence or other information that must be submitted by the suppliers, contractors, or consultants to demonstrate their qualifications
- Summary of the main terms and conditions of any likely contract.

Criteria such as these will help the procuring entity in deciding which procurement method is appropriate and will be included in the bidding documents.

It is important to note that artificially splitting contracts to avoid procurement oversight requirements is a violation of Oyo State Public Procurement regulation.

## 6. **Select the Procurement Solicitation Method**

Several methods are available to procure goods, services, and works. As far as possible, the open competitive bidding method should be used, as this is the default procurement method for all public procurement in Oyo State. However, there are specific circumstances in which other methods are available to a procuring entity. Once the criteria for a bid have been established, the procuring entity should decide which of the following solicitation options is most appropriate. A written justification for the decision must be included in the procurement proceedings record.

- a. **Open Competitive Bidding** – An invitation to bid is widely circulated and anyone may apply to pre-qualify or to bid.
- b. **Two-stage Bidding** (*prequalification applies*) – In a two-stage process, the procuring entity prepares a first stage bidding document with functional performance specifications, rather than detailed technical specifications. In response, bidders offer un-priced technical proposals (i.e., no financial proposal is submitted at the first stage). The procuring entity then assesses the contractor/vendor's qualifications and evaluates the technical proposals. This enables the procuring entity to better explore options for the technical approach to a procurement and adjust its bidding documents as needed.  
In the second stage of the bidding process, bidders offer final bids containing their final technical proposal and a financial proposal. The procuring entity then evaluates the proposals (technical and financial) according to the criteria specified in the bidding documents.
- c. **Restricted Bidding** (Selective Tendering) – Subject to the approval by the Bureau, a procuring entity may, for reasons of economy and efficiency engage in procurement by means of restricted bidding if:
  - Only a few known sources are available.
  - Advertising would be a waste or for small value procurements in which the cost of advertising is disproportionately high.
  - There are exceptional reasons such as emergency actions related to a major natural disaster, which may justify the waiving of advertising for competitive bids.
  - Goods to be procured are such as pharmaceuticals, or highly specialized equipment for construction or where there are only a limited number of known suppliers or manufacturers.

The procedure is used as an exception rather than the norm.

- d. **Single Source Selection** (Direct Procurement) – This selection method is allowed only in exceptional circumstances, subject to Due Process prior approval. It may be appropriate only if it presents a clear advantage over

competition. The procuring entity may invite a proposal or sealed quotation from a single supplier or contractor for reasons such as:

- Urgency due to a catastrophic event and engaging in bidding proceeding.
- Where only one firm is qualified or has the experience of exceptional value for the assignment.
- Where the size of a proposed procurement for additional supplies in relation to the original procurement, reasonableness of the price, need for standardization and compatibility, justify the procurement such as for tasks that represent a natural continuation of previous work carried out by the same contractor/vendor.
- 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 quantities to establish commercial viability or recover research and development costs
- Procurement that relates to State security.

**e. Force Account (Direct Labour)**

Subject to the concurrence and approval of the Bureau of Public Procurement, direct labour may only be applied where a procuring entity has ascertained that no other approach is permissible for a particular procurement and such procurement request meets any of the following conditions:

- A schedule of rates or costs would not be feasible, as quantities of work to be carried out cannot be defined in advance;
- Works are small and scattered or in remote locations with no local contractors and mobilization costs for outside contractors would be too high;
- Works must be carried out without disrupting existing operations;
- The risk of unavoidable work interruptions is better borne by the procuring entity than by a contractor;
- No contractor is interested in conducting the work at a reasonable price;
- It has been demonstrated that Direct Labour is the only practical method for constructing and maintaining works under special circumstances; or
- Where national security would be compromised if any other method was used.

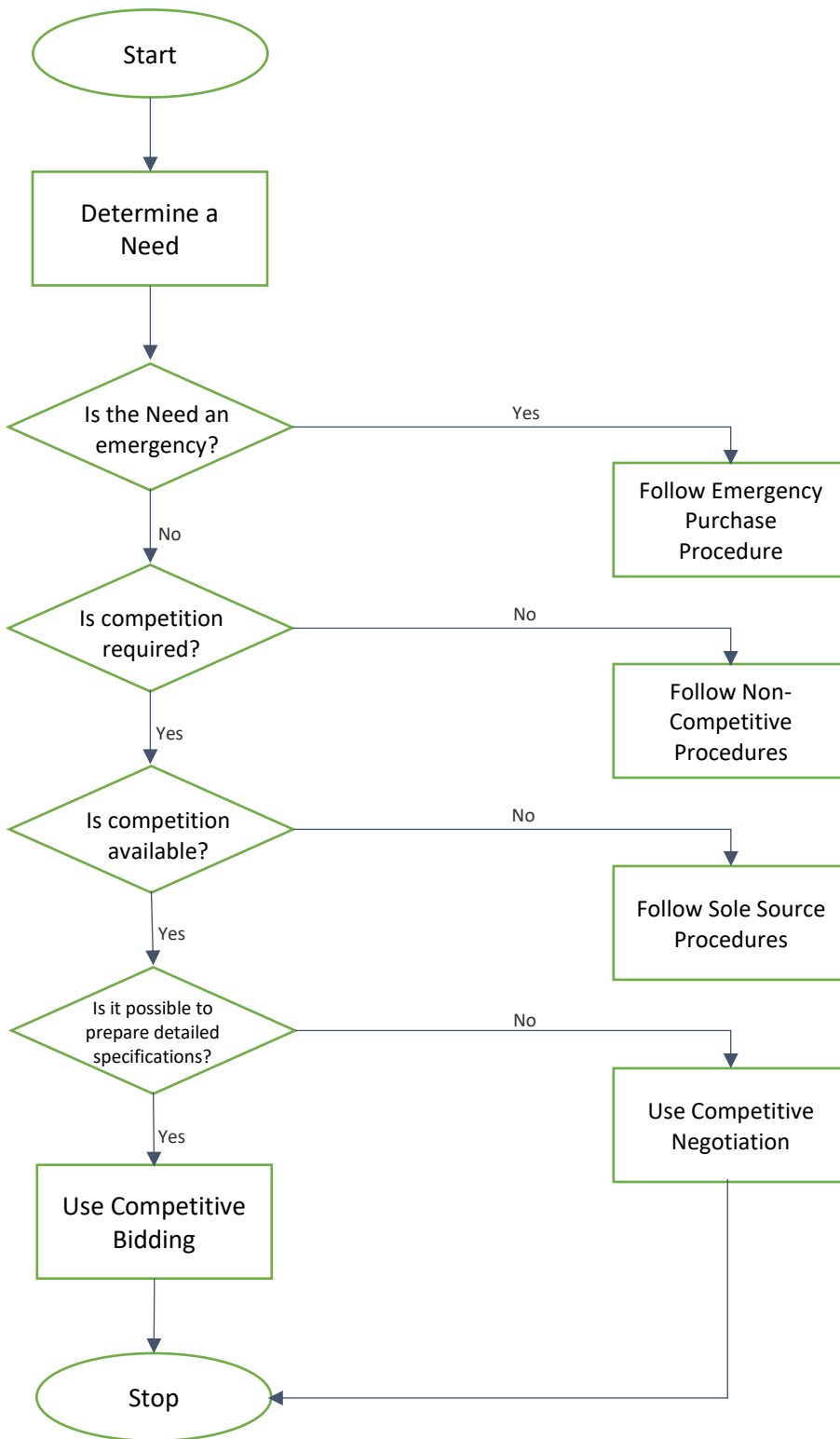
**7. Emergency Procurement**

In addition to the provisions for emergency procurement as contained in Section 52 of the Oyo State Public Procurement Law 2010, the following provisions shall apply to emergency situations for the expedition of all public procurement under such emergencies:

- i. Priority shall be given to the safety of human life, preservation of health and property and recourse shall be made to procedures that render the procurement processes faster and less cumbersome.
- ii. Under emergency situations, a procuring entity may engage in direct contracting for the procurement of essential goods or works in so far as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the time limits for open competitive or restricted tendering procedures are impracticable.
- iii. Every Procuring Entity shall apply the principles of probity and sound procurement - economy, efficiency, value for money, transparency and accountability.
- iv. Procurement under emergency situations may be conducted via electronic means of communication. The Procuring Entity may forward invitations to contractors electronically and the contractors may respond via the same medium. The execution of relevant documents may also be by electronic means in the event that physical execution is impracticable. Specifically, electronic signature of both the vendor and the procuring entity would be recognized as valid.
- v. Electronic copies of relevant documents, including financial documents, shall be acceptable under emergency situations and the evaluation of bids may also be conducted virtually where the emergency situation so requires.
- vi. Where applicable timelines may be adjusted to support the expeditious procurement of essential good and/or works.
- vii. Upon the cessation of the emergency situation:
  - a. Procuring Entities that have applied emergency procurements shall prepare a report to BPP for its approval on the procurements so carried out.
  - b. The BPP may, upon its review and verification of the emergency procurement, issue a Certificate of No Objection, if appropriate.
- viii. All records of the emergency procurement process must be forwarded to the BPP upon the cessation of the emergency and not later than 7 days after such emergency situations may have ceased.

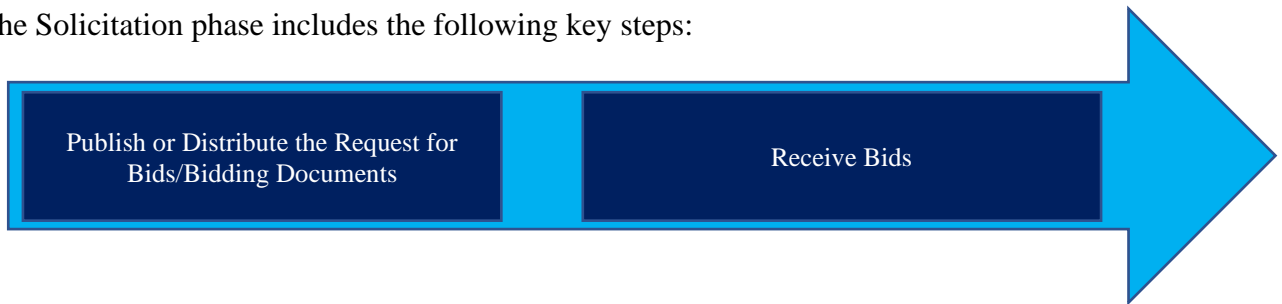
## Decision Tree for Procurement Methods

Public procurement should be handled as outlined below:



## Phase II: Solicitation

The Solicitation phase includes the following key steps:



### 1. **Publish or Distribute the Request for Bids/Bidding Documents**

If open competitive bidding is the selected mode of procurement, then the procuring entity should publish the request for bids sequel to obtaining approval from the Bureau of Public Procurement. For other procurement methods, the procuring entity should directly provide the bidding documents to pre-qualified bidders.

It is important to note that no communication may take place between a procuring entity (and its personnel) and any supplier or contractor after the publication of a bid solicitation, except where otherwise stated in these Guidelines.

### 2. **Receive Bids**

All bids should be signed by the bidder's appropriate authority, sealed in an envelope and submitted before the deadline for submission. The procuring entity should deposit all bids in a secured box.

A bidder may modify or withdraw its bid prior to the deadline. However, any bid received after the deadline for submission shall be returned to the bidder without opening.



### Phase III: Review



#### 1. Bid Opening

Bid opening must take place immediately following the deadline stipulated for submission. Every bid must be opened at the time and place indicated in the bidding documents. Every bidder or its representative shall be authorized to attend the bid opening.

In order to promote transparency of the proceedings, interested members of the public should be allowed to attend the bid opening.

Names and respective addresses of all persons present at the bid opening should be recorded in an attendance register by the Secretary of the Tenders Board.

At the bid opening, the following information will be read out by the bid opener:

- a. Name and address of each bidder,
- b. Total amount of each bid,
- c. Any discount or alternative offered, and
- d. Where required, the presence or absence of bid security.

The Secretary of the Tenders Board should ensure that such details are recorded in the minutes of the bid opening meeting.

Once the bids have been opened, no information relating to the examination, clarification, and evaluation of bids or recommendations concerning award shall be communicated to bidders or anyone outside of the evaluation process until the successful bidder is notified of the award.

After the bids are opened, each member of the Tenders Board must fill a form disclosing any existing relationship with the bidders. If there is a conflict of interest, such a member must be excused from further deliberations on the specific procurement.

#### 2. Bid Examination

The purpose of bid examination is to determine if the submitted bids:

- a) Meet the minimum eligibility requirements as outlined in the law
- b) Are duly signed
- c) Are substantially responsive to the bidding documents
- d) Are generally in order

If a bidder is deemed ineligible, the procuring entity should notify that bidder in writing that the bid in question has been excluded and cite the grounds for the exclusion. This letter should be kept in the file for the procurement project.

A procuring entity may ask a supplier or a contractor to clarify its bid submission in order to assist in the examination, evaluation, and comparison of the bids. However, it may not request bidders to modify bid details for bids that are not responsive.

During examination, the procuring entity may correct purely arithmetical errors in the bidders' bids. The procuring entity must promptly notify bidders of such modifications.

### **3. Bid Evaluation**

The procuring entity should evaluate all valid bids using the appropriate method and criteria as stipulated in the bidding documents (those criteria cannot change at any time during the procurement process once the bidding documents have been released). Evaluation includes the following steps:

- i. Check for deviations
  - a. Disqualify bids with major deviations
  - b. Clarify questionable minor deviations with respective bidders
  - c. Quantify the minor deviations in monetary terms
- ii. Check for omissions and quantify them in monetary terms
- iii. Apply discounts where applicable
- iv. Convert foreign currency figures to naira using the rate included in the bidding documents (where applicable?)
- v. Monetize relevant factors that were stipulated in the solicitation documents in addition to price. This can include:
  - a. Cost of transportation, insurance, payment schedule, delivery time, operating costs, efficiency, access to spare parts, health and environmental safety, related training as well as losses from damage. (where applicable for procurement of goods)
  - b. The same factors above are applicable for procurement of works. Also, the value of early completion if time is a factor should be calculated for procurement of works. However, contracts must provide penalties for late delivery.
- vi. For procurement with domestic preference, calculate the margin of preference for domestic contractors.
- vii. Determine the lowest calculated prices, and rank the bids
- viii. Consider relevant technical factors laid out in the bidding documents, in addition to price.
- ix. If the highest-ranking bidder was pre-qualified, the procuring entity should revalidate the qualification and verify that the contractor has the resources and technical capability to execute the contract successfully.

- x. Where prequalification was not carried out, the procuring entity must conduct a post-qualification exercise of the bidders. Post-qualification involves checking the qualifications of the best evaluated bidder against criteria set out in the bidding documents. Where the highest evaluated bidder does not meet the criteria, such bid should be rejected and the next-ranked bid examined against the same criteria. The process should be repeated, if necessary, until a qualified bidder is identified.
- xi. Where applicable, a list of rejected bids should be prepared.
- xii. If all bids are rejected, submit a decision memo for the record and notify all bidders. The procuring entity retains the right to reject all bids at any time prior to the acceptance of a bid without incurring any liability to the bidders. All bids can be rejected if:
  - a. No bids are responsive to the request,
  - b. The best evaluated bid is substantially above the approved price in the budget,
  - c. The procurement is no longer required, or
  - d. There is evidence of collusion among bidders.

An invitation to re-bid may be made if either of the first two reasons is used, but the procuring entity should first re-examine the process and make any necessary adjustments to the technical specifications or contract conditions.
- xiii. Recommend winning bidder for award of contract,
- xiv. Prepare a bid evaluation report.

### **Deviations from the Bidding Documents Criteria**

For all procurement in Oyo State, bids with major deviations from the criteria stipulated in the bidding documents must be rejected. The procuring entity must inform such bidders about the rejection of their bids in writing, stating the reasons for the rejection. Also, such bidder will not be permitted to amend its bid for a major deviation.

However, if a minor deviation is found in a contractor's bid, the procuring entity may obtain written clarification from such bidder and allow corrections for minor deviation, as applicable.

Also, the procuring entity may correct purely arithmetical errors discovered in a bidder's bid and promptly notify such bidder of the correction. However, if a bidder does not accept the correction the bid must be rejected and a letter stating the reasons for rejection should be sent to the bidder.

The table below provides clarification on what constitute major and minor deviations, including but not limited to:

Minor Deviation	Major Deviation
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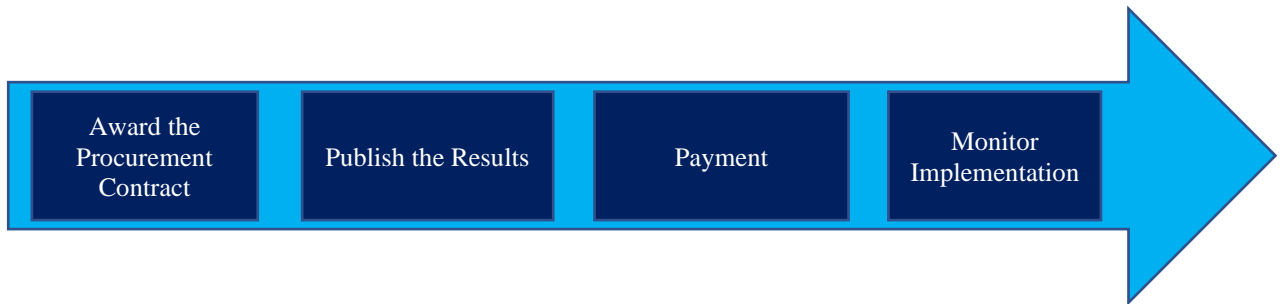
<ul style="list-style-type: none"> <li>a. Use of codes</li> <li>b. Difference in standards</li> <li>c. Difference in materials</li> <li>d. Alternative design</li> <li>e. Modified liquidated damages</li> <li>f. Omission in minor items</li> <li>g. Arithmetical errors</li> <li>h. Unclear and questionable sub-contracting</li> <li>i. Different construction methods</li> <li>j. Difference in final delivery date</li> <li>k. Difference in delivery schedule</li> <li>l. Completion period where time is not of essence</li> <li>m. Non-compliance with technical local regulation payment terms, and</li> <li>n. Any other condition that has little impact on the bid.</li> </ul>	<ul style="list-style-type: none"> <li>a. Unacceptable sub-contracting</li> <li>b. Unacceptable time schedule if time is of essence</li> <li>c. Unacceptable alternative design,</li> <li>d. Unacceptable price adjustment</li> <li>e. Uninvited, ineligible, or non-prequalified bidder</li> <li>f. Unsigned bid</li> <li>g. Bid received after the date and time for submission as stipulated in the solicitation document</li> <li>h. Any bid submitted at a wrong location (location not stipulated in the bidding documents).</li> </ul>
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#### 4. **Obtain Necessary Approvals**

The Accounting Officer must ensure that the procuring entity obtains all necessary approvals for the contract to be awarded by referring to the procurement threshold matrix.

## Phase IV: Award and Implementation

The award and implementation phase includes the following steps:



### 1. Award the Procurement Contract

Procurement contract will be awarded to the bidder that submitted the best evaluated bid among all substantially responsive bids (that is, bids that meet the qualification criteria).

All contracts should include detailed terms and conditions for the work to be performed or the goods to be supplied.

Unsuccessful bidders may challenge the result of a procurement decision if they feel it has not been executed in accordance with the guidelines laid out in these Guidelines.

Amendments to the contract that change the basic nature or scope of work must be agreed to by the parties in writing. Situations that may warrant an amendment might include the non-release or late release of funds, sudden monetary inflation, and a change in the government's funding priorities. However, if the amendment would increase the contract value by more than 25 percent, the procuring entity should relaunch the procurement proceeding and re-invite qualified bidders.

The winning bidder must sign the contract and present its performance security by the dates specified in the bidding documents or it will forgo its bid security and lose the contract. If this occurs, the procuring entity should select the next-ranked bidder from the pool of qualified bids.

### 2. Publish the Results

The procuring entity must publish a notice of every completed procurement award. Within 30 days of this announcement, an unsuccessful bidder may request the reasons why its proposal did not win, and the procuring entity must respond promptly.

### 3. Mobilize the Winner

Payments to the winning bidder should be made according to the payment schedule laid out in the contract. If a payment is delayed for more than 60 days, the contractor should be compensated for lost interest according to the rate defined in the contract. All contracts should include terms that specify the interest rate for late payments of more than 60 days.

Throughout the contract period, the Bureau of Public Procurement must issue a certificate of "No Objection" indicating that the terms of the contract continue to be fulfilled before any payment is made to the contractor. Also, notification of payment should be sent to the Bureau no later than two (2) days after release of funds to the vendor.

Subsequent to the issuance of mobilization fee (advance payment) further payments on procurements would be made only when the value of work done is at least equal to mobilization. Amortization of advance payment on procurements with 30% mobilization fee should be done as outlined in the table below.

Percentage of work done (using cost) (%)	Percentage of advance payment to be amortized (%)
30 – 40	50
41 – 50	60
51 – 60	75
61 – 70	90
71 – 80	100

For all public procurement contracts in Oyo State, a retention fee representing 5% of the contract sum shall be held and released after six (6) months from the date of issuance of final certificate of completion of the project by the procuring entity. However, retention fees for road and building construction contracts shall be held for one (1) year from the project handover date, when the project is officially handed over by the Contractor.

#### **4. Monitor Implementation**

The procuring entity's relevant units should ensure that the contract's terms (including delivery timelines) are being adhered to and the goods, works, or services are provided as expected and submit a progress evaluation report to the Bureau of Public Procurement.

Once the procurement process is completed, the procuring entity should conduct an examination of the procurement proceedings to identify areas for improvement as well as aspects of the procurement proceeding which were executed excellently. Report of such examination should be shared with the Bureau of Public Procurement which would consolidate similar reports from various procuring entities and share with

procurement professionals in all procuring entities regularly (per quarter or as deemed fit by the Bureau of Public Procurement).

### **Procurement of Consultancy Services**

Consultancy services are services of an intellectual or advisory nature that are not related to the supply of goods or execution of works.

The procurement of consultancy services is a specialized form of procurement requiring procedures and documents which are very different from those goods and works. The use of a short list of candidates, a merit-point evaluation systems and two-envelope procedures are standard features in selection of consultants. Selecting consultants on the basis of cost alone is unlikely to achieve the required quality of services.

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

Generally, it shall solicit for expressions of interest or applications to pre-qualify to provide the services by publishing a notice to that effect in at least 2 national newspapers and the procurement journal.

However, where the value of the services to be procured is less than one million naira, or with the approval of the Bureau, of such a low value that only national consultants would be interested, the procuring entity may without placing a notice under as indicated above, request at least 3 and not more than 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 of providing the service;
- iv. The timeframe for providing the service; and
- v. The cost and fee of the service.

By provision of the Oyo State Public Procurement Law, 2010, the diagram below describes the process for procurement of consultancy services.

A procuring entity can contract a consultant using different methods from the procurement of goods, services, and works. In most cases, the procuring entity should issue a Request for Proposals (RFP). In certain cases, direct procurement can be used. Both of these methods are described in detail below.

### **Requests for Proposals**

#### **1. Create a List of Potential Consultants**

For consultancy contracts up to ₦1 million, a short list of potential consultants (at least 3 and not more than 10 consultants) can be created based on the procuring entity's own knowledge and information.

For consultancy contracts over ₦1 million, the procuring entity must publish a notice seeking expressions of interest from potential consultants. It must be published in at least two national newspapers and the procurement journal. All respondents should be included in a short list of potential consultants.

## **2. Request Proposals**

The procuring entity should send a request to each individual on the short list to submit a proposal. The request should clearly lay out the expected elements of the proposal, such as qualifications of the consultant, statement of understanding of the procuring entity's need, methodology for providing the service, the fee, terms, time of delivery, and other special requirements. The request should also indicate which evaluation methods will be applied when selecting the best proposal.

## **3. Evaluate Proposals**

### *Methods of evaluation*

The selection of the successful proposal shall be based on one of the following methods, as indicated:

- a. **Quality and cost:** The procurement entity should in most cases evaluate the bids based on a combination of the technical quality of the proposal, the consultant's relevant experience, expertise of key staff, the proposed work methodology, and the price quoted in the proposal.
- b. **Quality and fixed budget:** Where there is a predetermined fixed budget, the procurement entity should evaluate the proposals based on the quality of the technical proposal under the agreed budget threshold.
- c. **Technical quality alone:** Where the services are of an exceptionally complex nature or likely to have considerable impact on future projects or the economy of the state, the procurement entity can decide exclusively on the technical quality of the proposal.

### *Technical review of proposals*

The procuring entity should first conduct a technical review of all proposals using the following criteria:

- a. consultant's relevant experience for the assignment;
- b. quality of the methodology proposed;
- c. qualifications of the key staff proposed;
- d. knowledge transfer, if required in the request for proposals; and
- e. Where domestic preference is given, the extent of participation by indigenes of Oyo state among key staff in the performance of the assignment.

Results of the technical evaluation should be publicly announced by the procuring entity.



#### *Financial review of proposals*

The procuring entity will then review the financial proposals of all potential consultants whose technical proposals met the pre-determined minimum standards in the request for proposals.

If the proposals are being reviewed according to considerations of quality and cost, fixed budget, or least cost (as described above): The procurement entity will conduct the evaluation during a public review session, about which all bidders are informed in advance and are permitted to attend.

If the proposals are being reviewed according to technical quality alone (as described above): The procuring entity will evaluate only the financial proposal of the consultant whose technical proposal was ranked the highest.

#### **4. Contract Negotiation**

**Terms:** The procurement entity may negotiate the contract with the winning consultant with regard to the terms that had been laid out in the request for proposals, the scope of the proposed services, deliverables, progress reports and facilities to be provided by government, as well as the financial proposal.

**Cost:** For all evaluation methods but technical quality alone, the fee for services cannot be reviewed. However, the cost of reimbursable items may be negotiated.

If the negotiations fail to result in an acceptable contract, the procurement entity must notify the consultant and proceed to the next ranked bidder, and so on.

#### **5. Select Award Recipient**

The consultant whose bid attains the highest score, in accordance with the criteria and selection method set forth in the request for proposals, or the one with the least cost in the case of the least cost method of selection, shall be selected for award, subject to satisfactory conclusion of negotiations based on the terms in the Request for Proposals.

The procurement entity must simultaneously notify the successful consultant of his or her selection for the award and notify all other shortlisted consultants of the decision. If there is no challenge to the decision by one of the other shortlisted consultants within 15 days, the procurement entity should issue the contract.

**Direct Procurement**

The procuring entity may procure consultancy services from a single source without bids if one of the following situations is true:

- a. A consultant has unique qualifications that are required for a particular consultancy service; or
- b. There is an existing consultancy contract, and it is essential to have continuity of these services by the same individual to meet the objectives of the assignment.

The procurement entity must submit a statement in the procurement record explaining the reasons and justification for the single source procurement.

For further description of the procedures for procuring consultancy services, please refer to the infographics on page 39 of these Guidelines.

#### **SECTION IV: Code of Conduct for Public Procurement Officials**

The following code of conduct must be adhered to by all Oyo State public officials involved in procurement:

Every person who is entrusted with public funds should take care to use them widely and with care.

Where a transaction involves the disposal of assets, the principles of honesty, accountability, transparency, fairness, and equity shall continue to apply to the same extent as where it involves procurement.

These principles shall apply at all times, particularly when:

- a. Making requisition for or planning procurements;
- b. Preparing solicitation documents;
- c. Receiving offers in response to any form of solicitation towards a procurement or disposal;
- d. Evaluating and comparing offers confidentially and in complete neutrality;
- e. Protecting the interest of all parties without fear or favor; and
- f. Avoiding all situations likely to render an officer vulnerable to embarrassment or undue influence.

All public officers shall handle public procurement and disposal of assets by:

- a. Ensuring adequate time for preparing officers;
- b. Complying with this law and all regulations made under it; and
- c. Maintaining strict confidentiality until completion of a contract.

All public officers involved in public procurement and disposal of assets shall maintain the highest standards of ethics in their relationship with persons real or corporate who seek government commerce whether as a bidder, supplier, contractor, or service provider by developing transparent, honest, and professional relationships with such persons.

Every public officer involved directly or indirectly in matters of public procurement and disposal of assets shall:

- a. Divest himself or herself of any interest or relationships which are actually or potentially inimical or detrimental to the best interest of government and the underlining principles of this Law; and
- b. Not engage or participate in any commercial transaction involving the state government, its ministries, extra-ministerial departments, or corporations where his or her capacity as public officer.

A conflict of interest exists where a person:

- a. Possesses an interest outside his or her official duties that materially encroaches on the time or attention which should otherwise be devoted to the affairs of government;
- b. Possesses a direct or indirect interest in or relationship with a bidder, supplier, contractor, or service provider that is inherently unethical or that may be implied or constructed so to be, or make possible personal gain due to the person's ability to influence dealings;
- c. Entertains relationships which are unethical, rendering his or her attitude partial toward the outsider for personal reasons or otherwise inhibit the impartiality of the person's business judgments;
- d. Places by acts or omissions the procurement entity he or she represents or the government in an equivocal, embarrassing, or ethically questionable position;
- e. Entertains relationships that threaten to compromise the integrity of his/her procuring entity or the state government;
- f. Receives benefits by taking personal advantage of an opportunity that properly belongs to the procurement entity he or she represents or the government;
- g. Creates a source of personal revenue or advantage by using public property which is entrusted to him/her either in the course of his or her work or otherwise; or
- h. Discloses confidential information that belongs to the procurement entity, the government, or to a supplier, contractor, or service provider to unauthorized persons.

A person involved in the disposal of assets shall not either by a third party or by himself be interested in any manner in buying directly or indirectly these assets and shall not have or obtain any type of advantage or revenue from the disposal for a period of three years after the disposal.

Anyone involved in the procurement process must declare his or her assets within 30 days of his or her appointment to a position and when leaving that appointment. He or she must also make a fresh declaration of assets if the amount changes significantly.

These assets will only be disclosed to the appropriate authority and will not be released to the public or anyone else unless the individual concerned gives express consent or by court order, where there is reasonable cause to do so.

**SECTION V:****Contractor/Vendor Registration with the Bureau of Public Procurement, Oyo State.**

To ensure transparency, competitiveness and optimal value for money for Oyo State, all Contractors and Vendors must be registered with the Bureau of Public Procurement to be able to transact with the State.

The schedule below shows the categories and requirements for registration. Please note that this schedule excludes other mandatory fees such as the Ten Thousand Naira (N10,000.00) fee for application forms and other payments as may be required by relevant Ministries/Agencies.

**Registration categories and requirements**

<b>Value of Project</b>	<b>Category</b>	<b>Registration Fee (NGN)</b>	<b>Renewal Fee (NGN)</b>	<b>Required Documents</b>
<b>Below N500,000</b>	<b>A</b>	10,000.00	5,000.00	CAC Registration (Certificate) Receipt of Payment Company's Income Tax Clearance Personal Income Tax Clearance VAT Registration Certificate Company Profile with Resume and Govt. issued ID of Key Personnel
<b>Greater than N500,000 and up to N5million</b>	<b>B</b>	15,000.00	10,000.00	CAC Registration Receipt of Payment Company's Income Tax Clearance Personal Income Tax Clearance VAT Registration Certificate Company Profile with Resume and Govt. issued ID of Key Personnel
<b>Greater than N5Million and up to N10million</b>	<b>C</b>	50,000.00	25,000.00	CAC Registration Receipt of Payment Company's Income Tax Clearance Personal Income Tax Clearance VAT Registration Certificate

				Company Profile with Resume and Govt. issued ID of Key Personnel Memorandum & Articles of Association Evidence of executed projects Bank Reference Letter Company's 3-Year Financial Summary
<b>Greater than ₦10million and up to ₦100million</b>	<b>D</b>	150,000.00	50,000.00	CAC Registration Receipt of Payment Company's Income Tax Clearance Personal Income Tax Clearance VAT Registration Certificate Company Profile with Resume and Govt. issued ID of Key Personnel Memorandum & Articles of Association Evidence of executed projects Bank Reference Letter Company's 3-Year Financial Summary
<b>Greater than ₦100million and up to ₦250million</b>	<b>E</b>	250,000.00	100,000.00	CAC Registration Receipt of Payment Company's Income Tax Clearance Personal Income Tax Clearance VAT Registration Certificate Company Profile with Resume and Govt. issued ID of Key Personnel Memorandum & Articles of Association Evidence of executed projects Bank Reference Letter Company's 3-Year Financial Summary

<b>Greater than ₦250million and up to ₦1billion</b>	<b>F</b>	500,000.00	200,000.00	CAC Registration Receipt of Payment Company's Income Tax Clearance Personal Income Tax Clearance VAT Registration Certificate Company Profile with Resume and Govt. issued ID of Key Personnel Memorandum & Articles of Association Evidence of executed projects Bank Reference Letter Company's 3-Year Financial Summary
<b>Greater than ₦1billion</b>	<b>G</b>	1,000,000.00	250,000.00	CAC Registration Receipt of Payment Company's Income Tax Clearance Personal Income Tax Clearance VAT Registration Certificate Company Profile with Resume and Govt. issued ID of Key Personnel Memorandum & Articles of Association Evidence of executed projects Bank Reference Letter Company's 3-Year Financial Summary

## REGISTRATION

Registration can be done in the Bureau of Public Procurement or online at [www.oyobpp.oyostate.gov.ng](http://www.oyobpp.oyostate.gov.ng) (See schedule for registration categories, fees and required documents). Registration certificates are issued to registered contractors.

### Renewal

Registration is valid for 1 year from the date of registration and may be renewed annually upon expiration. (See schedule for renewal fees)

### Registration category upgrade

Contractors may, at any time within the validity of their registration, upgrade their registration category by paying the difference between the registration fees for the current category and the preferred category. Contractors shall not be eligible to any upgrade where registration has expired. Category upgrade takes effect immediately and without prejudice to current registration validity period.

### **Contractor Code of Conduct and Grounds for Suspension, Debarment or Blacklisting**

All bidders and suppliers must adhere to the following rules:

1. A bidder or a supplier shall not engage in or abet any corrupt or fraudulent practice, including the offering or giving, directly or indirectly, of improper inducements, in order to influence a procurement process or the execution of a contract, including interference in the ability of competing bidders to participate in procurement proceedings.
2. A bidder or a supplier shall not engage in any coercive practice threatening to harm, directly or indirectly, any person or his property to influence his or her participation in a procurement process, or affect the execution of a contract.
3. A bidder shall not engage in collusion, before or after a bid submission, designed to allocate procurement contracts among bidders, establish bid prices at artificial non-competitive levels, or otherwise deprive a procurement entity of the benefit of free and open competition.
4. Any bidder supplier engaging in any of the activity above will have its bid rejected, and it and related companies cannot further participate in the bidding.

The Bureau of Public Procurement shall suspend or debar (prevent from participating in any procurement process) any potential bidder or supplier on any of the following grounds:

- a. Supplying false information in the process of submitting a bid or prequalification application;
- b. Collusion between the bidders or a bidder and a public official concerning the formulation of any part of the bidding documents;
- c. Interference by a supplier with the participation of competing bidders;
- d. Misconduct relating to the submission of bids, including corruption, price fixing, a pattern of underpricing bids, breach of confidentiality, misconduct relating to execution of procurement contracts, or any other misconduct relating to the responsibilities of the bidder or supplier;
- e. Conviction for an offence relating to obtaining or attempting to obtain a procurement contract; or
- f. Conviction for an offence related to dishonesty or fraud in his or her professional activity.
- g. Failure to perform or to provide due care in performance of any public procurement



Before suspending or debarring a bidder or supplier, the Bureau of Public Procurement reviews and considers the factual record developed by the procurement entity that proposes the action and give reasonable notice to the bidder or supplier involved. They must be allowed a reasonable opportunity to respond to the proposed action before the decision is taken.

A period of debarment can extend up to a maximum of 5 years.

## **APPENDICES**

### **Appendix A: Advertisement**

All contracts above One Million Naira (₦1,000,000.00) must be advertised.

All contracts between One Million Naira (₦1,000,000.00) and Ten Million Naira (₦10,000,000.00) to be undertaken by open competitive bidding shall be advertised on the Bureau's notice board, the central notice board at the Governor's office, the procuring entity's notice board as well as their official websites. The said advertisement should be conspicuously displayed under the strict supervision of the Bureau.

All contracts above Ten Million Naira (₦10,000,000.00) to be undertaken by open competitive bidding, in addition to the requirement above must also be advertised in at least two national newspapers.

Contracts above Fifty Million Naira (₦50,000,000.00) must first be advertised for pre-qualification.

Drafts of advertisements must be forwarded to the Bureau of Public Procurement for to ensure compliance with the public procurement regulations.

Interested bidders shall be given at least two (2) weeks to submit their bids or expression of interest.

### **Appendix B: Award Review and Sanction Process**

If it has received a complaint or has any other cause to investigate, the Bureau of Public Procurement can take any of the following actions:

- Inspect or review any questionable procurement transaction to ensure it complies with the laws and regulations guiding public procurement in Oyo State.
- Call for information, documents, records and reports in case of breach, wrongdoing, default, mismanagement, or and collusion.
- Require the production of books of account, plans, and documents, and examine persons or parties in connection with any procurement proceeding where there are allegations or proof of wrongdoing.
- Set up a committee to monitor the performance of any procurement requirement by any contractor, supplier, or service provider

If a procurement entity or contractors is found guilty of fraudulent and unfair procurement, the Bureau of Public Procurement can recommend that the State Council on Public Procurement take any of the following actions:

- Suspension of officers
- Replacement of head or member of the procurement entity
- The discipline of the accounting officer of any procurement entity
- Temporary transfer of the procurement function from one entity to another
- Any other sanction considered by the council

However, the Due Process Bureau can take the following actions independently:

- Debar any supplier, contractor, or service provider who contravenes the law or regulations.
- Nullify the whole or part of any procurement proceeding or award which is in contravention of Oyo State Public Procurement Law (2010).