

JIGAWA STATE GOVERNMENT



DUE PROCESS GUIDELINES

FOR

**THE OPERATIONS OF THE JIGAWA STATE
DUE PROCESS AND PROJECT MONITORING
BUREAU (DPPMB)**

Acronyms

DPPMB	Due Process and Project Monitoring Bureau
MDAs	Ministries, Departments and Agencies
EMDs	Extra-Ministerial Departments
FGPC	Finance and General Purpose Committee
MTB	Ministerial Tenders Board
SEC	State Executive Council
TEC	Tender Evaluation Committee
DPRS	Department of Planning, Research and Statistics
SQA	Systemic Quality Assurance

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INTRODUCTION

The purpose of this “manual” is to provide the tools for the operationalization of the Due Process Law which establishes the Due Process and Project Monitoring Bureau and provides for its function.

Rules and regulations governing public procurements have been in existence in various public documents such as the Stores Regulations and Financial Instructions, etc. Enforcement of these rules have however not been at the desired level leading to all kinds of anomalies in the public procurement process and other attendant consequences such as poor quality of contract execution, lack of value for money in project/procurement implementation, over-invoicing of contracts, delayed payments for executed contracts, etc.

The establishment of the Due Process and Project Monitoring Bureau and the enactment of the Due Process Law are part of an overall governance reform process aimed at providing effective and efficient public expenditure and financial management systems.

The success of the reform process however depends on the cooperation of all stakeholders in the process both within and outside the public sector. The most critical success factor however, is Government’s commitment to the implementation of the annual budget and adherence to Due Process. In this regard, it is hoped that the Fiscal Responsibility Law passed by the State Government will complement the Due Process Law so that together they will provide the desired impact and ultimately lead to a positive transformation of the socioeconomic wellbeing of the people of Jigawa State.

***IN THE EXERCISE OF ITS POWERS
UNDER SECTION 8(a) OF THE DUE
PROCESS AND PROJECT MONITORING
BUREAU LAW, THE GOVERNING
COUNCIL OF THE BUREAU HEREBY
MAKE THE FOLLOWING GUIDELINES***

CHAPTER ONE

1.1 The Due Process Policy in Jigawa State

Due Process in Jigawa State is part of an overall governance reform process aimed at ensuring effective and efficient service delivery. The Due Process compendium consists of the basic guidelines governing budget implementation in its totality from spending limits for the various spending units to procedures governing award of contracts for projects, services or procurements. Notwithstanding the existence of rules and regulations as contained in Stores Regulations, Financial Instructions and other Government circulars, the Due Process manual is put together as the operational tools of the Due Process and Project Monitoring Bureau – the Government Agency established by Law to ensure strict observance / enforcement of the Due Process guidelines. The Due Process Guidelines are intended to promote transparency, competitiveness and value-for-money in the process of projects, procurement and service contracts by Government Agencies. The overall, objective is to ensure that service delivery is both effective and efficient – that is getting the right output and outcomes at the right cost.

NOTEWITHSTANDING the establishment of the Due Process and Project Monitoring Bureau and the provision of various punitive measures against persons and agencies flouting the Due Process Guidelines as provided in the Law, Accounting Officers shall discharge their responsibilities diligently in accordance with the provisions Financial Instructions and other extant circulars as they relate to spending limits, procurements, documentation, etc.

1.2 Why Establishing the Bureau

The Due Process and Project Monitoring Bureau (DPPMB) was established by the Government in a bid to ensure strict compliance with the principles of prudence, transparency, accountability, competition and total quality management in the execution of projects, procurement and service contracts. This is also part of the efforts to effective public expenditure and financial management procedures. In addition, the establishment of the Bureau with enabling law and its associated tool of operation – the Due Process Manual – is to complement the reform agenda of the Federal Government aimed at entrenching discipline and good governance throughout the Nigerian polity. The end value of it all is to facilitate the attainment of the ultimate objective of Government – sustainable socioeconomic development of Jigawa State.

1.3 The Vision of the Bureau

The Vision of the Due Process and Project Monitoring Bureau is:

“... A disciplined and integrity-driven State public service where the entire process of public contracting is governed by the principles of transparency, competition and value-for-money thereby ensuring optimal utilization public funds...”

1.4 The Mission of the Bureau

The Mission of the Due Process and Project Monitoring Bureau is:

“... To use the Due Process Mechanism to re-establish and sustain an open, transparent and competitive Procurement Systems that uphold budget discipline, ensure speedy implementation of projects and are integrity-driven in order to achieve value-for-money outcomes without sacrificing quality and standards ...”

1.5 The Objectives of the Bureau

- To ensure the existence of harmonized and periodically updated policies and guidelines on public procurement in the State in accordance with best practices.
- To strictly enforce the Due Process principles of transparency, competition efficiency and value-for-money in the execution of contracts for supplies, works and services in the State as set out in the Due Process Manual and in accordance with its enabling Law;
- To ensure that project packaging and implementation match the defined priorities and targets as set out in annual appropriation laws of the State.
- To prevent extra budgetary spending by Ministries, Departments and Agencies (MDAs) in the State by ensuring that only projects contained in the Approved Budget or supported by appropriate Financial Warrants are executed.

- To ensure value-for-money in the implementation of projects, procurements or service and to prevent contract inflation by ensuring cost reasonableness, accuracy and comparability of all public contracts with national, regional and global costs.

1.6 The functions of DPPMB

- Regulate and set standards to enforce harmonized bidding and tendering process in the State;
- Enforce general policies and guidelines on procurements of goods, services and construction works by the all Government Agencies;
- Monitor to ensure the efficient and effective implementation of all capital projects and procurements in line with Due Process principles from point of contract award to the commissioning stage with proper documentations at all levels;
- Vet and make recommendations on Project Designs, Bills of Quantities and other project technical requirements and specifications prior to contracting and implementation;
- Develop, update and maintain relevant database and technology for the State on all procurements by Government Agencies;
- Uphold professional ethics and report erring procurement personnel, State Government functionaries, departments and private sector companies and their personnel to relevant authorities for appropriate sanctions;
- Monitor prices of tendered items and provide price database advisory services to the procuring entities,
- Perform procurement audits.

- Coordinate trainings to promote capacity building of procurement personnel of all the MDAs in the State.
- Sensitize, promote and educate the citizens and other stakeholders in the State on Public Procurement issues;
- Advise the Government on the status of State Government procurements in relation to the annual appropriation;
- To make periodic recommendations to its Policy Coordinating Council on the execution of the Due Process guidelines either in their substance or operationalization;
- Provide relevant budget performance information in relation to progress on the execution of projects, procurements and service contracts throughout the public service in the State to any interested persons and institutions within and outside Government
- Any other task that may be entrusted to it by the Government or the Policy Coordinating Council as they relate to its Due Process functions.

CHAPTER TWO

Categories of Contracts and the Role of DPPMB

2.1 Introduction

The DPPMB is to review and certify State Government contracts which are categorized into five categories according to the approval thresholds. While this will ensure compliance with Due Process principles including transparency, competition and merit among others, it would also ensure that the right prices are used in Government contracts for goods, works and services. The supervisory and certification role of the Bureau will ensure contract execution in accordance with the terms of the contracts from the award stage through to their successful execution and completion, avoiding cumbersomeness, delay and other bottlenecks.

In pursuance of Government's determination to ensure accountability, efficiency, probity and transparency in the conduct of its business, approval to incur expenditures and award of contracts by Government Ministries/Parastatals shall be based on the appropriate category and the laid down procedures as contained in this Guidelines

2.2 Contract Categories

2.2.1 Category One: Chief Executives of Parastatals

A Chief Executive of a Parastatal, on following all the prescribed Due Process procedures, may award contract for purchase of goods, construction work or engagement of service for an amount not exceeding ₦500,000. Any contract whose value exceeds ₦500,000 shall be referred to the Board of the Parastatal/Corporation.

2.2.2 Category Two: Board of a Parastatal/Corporation

The Board of a Parastatal or Government Corporation may award contract for an amount above ₦500, 000.00 but not exceeding ₦1, 000,000.00. Any amount exceeding ₦1, 000,000 to the maximum of ₦5, 000,000 shall be referred to the Commissioner of the Ministry supervising the Parastatal/Corporation. Any amount exceeding ₦5, 000,000.00 to the maximum of ₦10, 000,000 shall be referred to the Governor. In the same vein, any amount exceeding ₦20, 000,000 shall be referred to the State executive Council. In any case the laid down rule must be complied with.

2.2.3 Category Three: Ministerial Expenditure

(a) CAPITAL EXPENDITURE:

Any capital expenditure by a Ministry shall either be initiated by the Head of Department, Permanent Secretary or Commissioner in accordance with its budgetary provisions. Where expenditure is below ₦100, 000,000 the Permanent Secretary shall forward the proposed expenditure supported by all necessary documents to the Bureau for vetting. Upon the vetting by the Bureau, it shall then be forwarded to the Governor for approval.

Where expenditure is above ₦100, 000,000, the Ministry shall constitute a committee for the purpose of tender. Whereupon, it shall be forwarded to the Bureau and then to the executive council for approval.

(b) RECURRENT EXPENDITURE:

(I) Monthly Running Cost: The Ministry is entitled to spend its monthly recurrent expenditure without seeking any further approval except where a single expenditure exceeds Five Million Naira (N5,000,000.00)

Where the expenditure is above ₦5,000,000.00 the proposed expenditure supported by all necessary documents shall be forwarded to the Bureau for vetting. Upon the vetting by the Bureau, it shall then be forwarded to the Governor for approval.

(II) Special Recurrent Expenditure: Any special expenditure by a Ministry shall be forwarded with all supporting documents to the Governor for approval. Where the special recurrent expenditure is up to ₦5, 000,000.00 (Five Million Naira) and above, it shall be forwarded to the Bureau for vetting prior to the Governors approval.

2.2.4 Category Four: SSG/HOS/Commissioner/Head of EMDs

The Secretary to the State Government, the Head of the State Civil Service, and Heads of Extra-Ministerial Departments¹ can award contract for an amount not exceeding ₦5,000,000.00 (Five Million Naira) after due consultation with the Governor. Where expenditure is above ₦5, 000,000.00 but below ₦20, 000.00 (Twenty Million Naira) it shall be forwarded to the Governor for approval.

2.2.5 Category Five: State Executive Council (SEC)

Any contract the value of which exceeds ₦20, 000,000.00 (Twenty Million Naira) shall be referred to the State Executive Council (SEC) for Consideration and approval.

Notwithstanding anything contained in these guidelines, whenever a recurrent expenditure other than special expenditure is up to Five Million

¹ Extra-Ministerial Departments in this context refer to Civil Service Commission, Local Government Service Commission, State Independent Electoral Commission, Board of Internal Revenue, Office of the State Auditor General and Directorate of Local Government Audit, State Universal Basic Education Board, Dutse Capital Development Authority.

Naira (~~₦~~5,000,000.00), it must be approved by the Governor upon the vetting of the Bureau. While in the case of special expenditure, no amount shall be spent without the Governor's approval and Executive Council where it exceeds N 20,000,000.00 (Twenty Million Naira).

2.3 Guidelines for the Award of Contracts

Ministries, Extra-Ministerial Departments and Parastatals/Corporations in the State shall observe the following guidelines in the award of contracts:

(1) Ministerial Tenders Committee (MTC)

- (a) Where the need arise the Ministry, Extra-Ministerial Department or Parastatal/Corporation shall establish a tender committee whose chairman shall be the Permanent Secretary of the Ministry or the chief Executive of the Extra Ministerial Department/Parastatal.
- (b) Other members of the committee shall be the Directors/Heads of Departments in the Ministry or Establishment. Where there is a Department for Planning, Research and Statistics (DPRS), the Director in charge of the Department shall be the Secretary. Where there is no DPRS, the Director in charge of Administration and Finance shall be the Secretary;
- (c) There shall be a representative each from the DPPMB, Budget & Economic Planning Directorate, Ministry of Justice and Ministry of Finance (Office of the Accountant General) and Council Affairs Directorate in the committees. Such representation is not an institutional membership as such any competent officer of these Agencies could be sent as a representative during any meeting of the committee;
- (d) The decisions of the committee shall, as the case may be, be confirmed by the Bureau.

(2) Powers of Boards of Corporations/Parastatals over Tenders

- (a) Although Chief Executives of Parastatals can award contract the value of which does not exceed ₦500, 000.00 (Five Hundred Thousand Naira), without open competitive tender, but at least three relevant written quotations shall be obtained from suitable contractors/suppliers. However, any expenditure incurred above ₦100, 000.00 shall be documented and reported to the Chairman of the Board of the Corporation/Parastatal, on quarterly basis, for information.
- (b) Any contract in excess of ₦500, 000.00 (Five Hundred Thousand Naira) but not more than ₦1, 000,000.00 (One million Naira Only) shall be referred to the Board of the Corporation/Parastatal for consideration.
- (c) Any contract whose value exceeds ₦1, 000,000.00 (One Million Naira) but not more than ₦5, 000,000.00 (Five Million Naira) shall be referred to the Commissioner of the Ministry supervising the Parastatal/Corporation for consideration.
- (d) Any contract whose value exceeds ₦5, 000,000.00 but not more than ₦20, 000,000.00 shall be referred to the Governor for approval.

Subject to the power of the State Executive Council no amount stated in this chapter shall be expended without prior approval of the Governor.

- (i) **Open Competitive Tender:** This type of tender demands wide invitation of prospective contractors to show interest in executing the project under consideration. The procedure starts with advert and concludes with the determination of “winner”. When a contract is

valued at more than ₦100 million, this tendering procedure shall be used. The contract is to be advertised in Government Gazette and in at least two national dailies;

- (ii) **Selective Competitive Tender:** This type of tender may apply to all procurements from N 20,000,000.00 (Twenty Million Naira) to ₦100,000,000.00 (One Hundred Million Naira), it demands that competition, for the contract to be awarded, shall be restricted to the selected or pre-qualified contractors in the State identified to possess the required technical and financial capacities and are well experienced in the type of project under consideration. The procedure starts with an invitation to at least two, but not more than five, such contractors to bid for the contract. The submissions made by the competing contractors shall be critically evaluated by the relevant Tenders Committee and vetted by the DPPMB before taking decision on the next line of action (approval or recommendation to a higher authority, as the case may be).

- (iii) **Nominated Tendering Procedure:** This applies to procurements below N20, 000,000.00 (Twenty Million Naira). Here a single contractor is to be nominated by the appropriate awarding MDAs, judging from the reliability, experience and competence of the contractor, to bid for the contract. Again, in line with the principles of checks and balances, the DPPMB has to certify the nominated contractor and, so, can recommend the rejection of any nominated contractor whose reliability or competence is in doubt.

2.6 Transparency in the Award of Contracts

The following practices shall be complied with in the award of contracts, to show transparency, competitiveness and equity:

- (i) In cases where Open Competitive Tendering Procedure is adopted, the opening of the tender must be done in public, at a designated date and time. Moreover, opening shall immediately follow the closing of the bidding period to minimize the risks of bid tampering. The bidders or their representatives shall be invited and members of civil society or the press shall not be excluded, if they wish to attend the tender opening;
- (ii) Bid evaluation criteria shall be clearly defined in the bidding documents. Award of all contracts shall be based on the criteria so defined;
- (iii) The award of all major contracts of ₦20,000,000.00 (Twenty Million Naira) and above shall be made public with description of the contract/project and its beneficiaries, name of winning contractor, and the contract price clearly Stated;
- (iv) Contracts shall be properly planned so as to avoid or minimize variations. Contract variations shall not be allowed except when absolutely necessary subject to the terms of the contract agreement. The method for determining price variation during contract execution must be incorporated into the contract agreement.

2.7 Vetting of Contracts Documents by the DPPMB

Project Designs (where applicable), Bills of Quantities, Quotations and other tendering documents in respect of any construction work, procurement or service contract whose value is Five Million Naira (N5,000,000.00) and above shall be vetted by the Due Process and Project Monitoring Bureau (DPPMB). Accordingly, all Ministries, Extra-Ministerial Departments and Parastatals/Corporations shall forward all documents in respect of contracts whose values exceed Five Million Naira (N5, 000,000.00) to the DPPMB for vetting to ensure compliance with laid down rules and regulations and issuance of a **Due Process Certificate**. This Certificate must be presented to the relevant approving authority before approval is given for the award of the contract. The Bureau reserves the right to reject any submission made to it which does not include all required/necessary documents.

The vetting process by the DPPMB shall be done within the following timeframe:

- (i) Contracts whose values are between ₦5, 000,000 to ₦10, 000,000: A maximum of 5 working days.
- (ii) Contracts whose values are between ₦10, 000,000 to ₦50, 000,000: A maximum of 2weeks.
- (iii) Contracts whose values are between ₦50, 000,000 to ₦100, 000,000: A maximum of 4 weeks.
- (iv) Contracts whose values are ₦100, 000,000 or above: A maximum of 6 weeks.

The DPPMB can use its permanent staff, staff on secondment from any public service or consultants for the vetting exercise, depending on the situation. Notwithstanding, the Government reserves the right to engage the services of competent consultants to render similar services.

2.8 Other Important Issues:

- (i) **Tenders Splitting:** It shall be regarded as a serious offence for any officer or contract awarding Agency to deliberately split contracts of works, procurement or engagement of services in order to circumvent the provisions of this operational manual. Such breach of the rules shall be subject to disciplinary action as may be prescribed in the Due Process Enabling Law or in the Civil Service Rules and Regulations;
- (ii) **Bid Security:** All contracts of ₦100,000,000.00 (One Hundred Million Naira) and above shall attract a Bid Security in an amount of not less than 2% of bid price in the form of Bank Guarantee, issued by a reputable Bank;
- (iii) **Performance Bank Guarantee:** Performance Bank Guarantee, in an amount of 10% of contract price, shall be obtained for all contracts in the sum of ₦100, 000,000.00 (One Hundred Million Naira) and above and shall only be discharged after the full execution of the contract.
- (iv) **Procurement Plan:** Quarterly procurement plan shall be developed and used to determine the requirement of funds for various Government Offices at different quarters during the fiscal year. Such plans shall spell out the timing for different procurement actions and show the funding requirements at different stages. Release of funds shall be on the basis of realistic, approved and updated procurement

plans. Procurement Plans are to be prepared on the approval of the annual Appropriation Law and submitted to the Directorate of Budget and Economic Planning for approval in principle and to form the State Procurement Plan for the Year. This is also in accordance with the Fiscal Responsibility Law of the State;

- (v) **Mobilization Fee:** Mobilization fee, where necessary and appropriate, shall not exceed 50% of the contract sum (depending on the nature and scope of the contract). However, payment of such mobilization fee shall be effected upon written application and submission of an unconditional Bank Guarantee for equivalent amount valid until the goods are supplied or until the mobilization fee has been repaid in the case of works contracts. Only such unconditional Bank Guarantee issued by a reputable bank shall be accepted; the mobilization fee shall be paid into the contractor's Account with the guaranteeing Bank. Provided always that, where mobilization fee is given, it shall be fully recovered on or before the project reaches 70% completion.
- (vi) **Registration of Contractors:** All eligible contractors must be duly registered with the Bureau and must produce their VAT Registration Certificate before any award of contract;
- (vii) **Audit Inspection:** As a condition for payment for contracts exceeding Five Million Naira (N5, 000,000.00), the Director-General, DPPMB or his representative; the Contractor or his representative and the representative of the MDA executing the project shall co-sign appropriate documents certifying the completion of the project or supplies for the release of any outstanding payment.

Beside this, certified true copies of all contract agreements shall be forwarded to the Office of the Auditor-General for the State or the Resident Auditors at the various Ministries/Extra-Ministerial Departments. In addition, minutes of Tenders Committee meetings and full records of all the tendering processes must be kept and made available for inspection by the Office of the Auditor-General for the State and Accountant-General of the State, on request. Such records shall be kept for a period of seven (7) years from the date of completion and take over of the project.

CHAPTER THREE

Categories of Contracts and the Role of DPPMB on Local Government Projects

3.1 Introduction

The DPPMB is to review and certify Local Governments Contracts which are categorized into six categories according to the approval thresholds. While this will ensure compliance with the principles of the due process procedures including transparency, competition and merit, it would also ensure that the right prices are used in Government contracts for goods, works and services. The supervisory and certification role of

the Bureau will ensure contract execution in accordance with the terms of the contracts from the award stage through to their successful execution and completion, avoiding cumbersomeness, delay and other bottlenecks in projects execution.

In pursuance of Government's determination to ensure accountability, efficiency, probity and transparency in the conduct of Government business, approval to incur expenditures and award of contracts by Local Governments shall be based on the appropriate category and the laid down guidelines, as described below.

3.2 Contract categories

3.2.3 Category One: Head of Department

A head of Department, on following all the prescribed due process procedures, can award contract for purchase of goods, construction work or engagement of service for an amount not exceeding N100, 000.00 monthly. Any contract whose value exceeds N100, 000.00 shall be referred to the Local Government Secretary.

3.2.3 Category Two: Local Government Secretary

The Secretary can approve the award of contract for an amount above N100, 000.00 but not exceeding N500, 000.00 monthly. Any amount exceeding N500, 000.00 shall be referred to the Chairman of the Local Government. In any case the laid down rule must be complied with.

3.2.4 Category Three: Executive Chairman

The Executive Chairman of a Local Government can approve the award of a contract for an amount not exceeding Five Million Naira (N5, 000,000.00) monthly. All expenditures authorized by the Chairman shall be reported to the Executive Council, at the next meeting, for information.

3.2.5 Category Four: The Local Government Tender Board.

The Local Government Tender Board can approve the award of contract for amount between N5, 000,000.00 to N10, 000,000.00 after fulfillment of Due Process requirements.

3.2.6 Category Five: Local Government Executive Council.

The Local Government Executive Council shall endorse the award of contract for any amount exceeding N10, 000,000.00 but to the maximum of N20, 000,000.00

3.2.7 Category Six: The Executive Governor

The Local Government Councils shall seek the consent of the Governor before awarding all contracts above N20, 000,000.00 on presentation of Due Process Certificate.

3.3 Guidelines for the Award of Contracts

All arms of the Local Government shall observe the following guidelines in the award of contracts:

(1) Local Government Tenders Board (LGTB)

- (a) There shall be established in each Local Government a Tenders Board, who's Chairman shall be the Chief Executive of the organization or his representative;
- (b) Other members of the Tenders Board shall be the Directors/Heads of Departments in the organization, while the Director in charge of Department of Planning, Research and Statistics (DPRS) shall serve as the Secretary.
- (c) There shall be a representative each from DPPMB and Ministry for Local Government in all LGTBs. Such representation is not an institutional membership as such

any competent officer of these Agencies could be sent as a representative during any meeting of the LGTB.

(2) Local Government Executive Council

Any contract the value of which exceeds N20,000,000.00 (Twenty Million Naira) shall be referred to the Local Government Executive Council (LGEC) for consideration and approval after being satisfied that all Due Process Procedures were followed;

3.4 Tender Types and Procedures

In order to give room for speedy and timely execution of government projects, three types of tenders and their procedures in the award of contracts are to be adopted, depending on the situation. They are as follows:

- (i) **Open Competitive Tender:** This type of tender demands wide invitation of prospective contractors to show interest in executing the project under consideration. The procedure starts with advert and concludes with the determination of “winner”. When a contract is valued at more

than N100, 000,000.00 in the case of State contracts or N20, 000,000.00 in the case of Local Government Council, this tendering procedure shall be used. The contract is to be advertised in Government Gazette and in at least two national dailies.

- (ii) **Selective Competitive Tender:** This type of tender shall apply to procurements of Five Million Naira (N5, 000,000.00) to Twenty Million Naira (N20, 000,000.00). It demands that competition, for the contract to be awarded, shall be restricted to the registered and familiar or pre-qualified contractors in the State/Local Government, who have the required technical and financial capacities and are well experienced in the type of project under consideration. The procedure starts with notification of the existence of the contract opportunity to at least two, but not more than five, such contractors selected to bid for the contract. The submissions made by the competing contractors shall be critically evaluated by the relevant Tenders Board before taking decision on the next line of action (approval or recommendation to a higher authority, as the case may be).

- (iii) **Nominated Tendering Procedure:** This type of tender shall apply to procurements below Five Million Naira (N5, 000,000.00). Here a single contractor is to be nominated by the appropriate awarding MDAs, judging from the reliability, experience and competence of the contractor, to bid for the contract. This type of tendering procedure shall be restricted to categories 1, 2 and 3 contracts. Again, in line with the principles of checks and balances, the DPPMB has to certify the nominated contractor and, so, can recommend the rejection of any nominated contractor whose reliability or competence is in doubt.

3.5 Transparency in the Award of Contracts

The following practices shall be complied with in the award of contracts, to show transparency, competitiveness and equity:

- (i) In cases where Open Competitive Tendering Procedure is adopted, the opening of the tender must be done in public, at a designated date and time. Moreover, opening shall immediately follow the closing of the bidding period to minimize the risks of bid tampering. The bidders or their representatives shall be invited and

members of civil society or the press shall not be excluded, if they wish to attend the tender opening.

- (ii) Bid evaluation criteria shall be clearly defined in the bidding documents. Award of all contracts shall be based on the criteria so defined;
- (iii) There shall be a Tender Evaluation Committee (TEC) made up of professionals for the evaluation of bids. The Secretary of the Tenders Board shall be the Secretary of the TEC. Members of the Evaluation Committee, Members of Tenders Boards and the approval authorities shall declare any conflict of interest and exclude themselves from bid evaluation and approval process.
- (iv) The Local Government Tenders Board can award any contract whose value does not exceeds N10, 000,000.00 (Ten Million Naira) without open competitive tendering. However, market surveys shall be conducted to obtain at least three relevant written quotations from suitable contractors/suppliers or service providers;
- (v) The award of all major contracts of N20,000,000.00 (Twenty Million Naira) and above shall be made public with description of the contract/project and its beneficiaries, name of winning contractor, and the contract price clearly stated;

(vi) Contracts shall be properly planned so as to avoid or minimize variations. Contract variations shall not be allowed except when absolutely necessary, subject to approval and or the recommendation of the Local Government Tenders Board (LTB). The method for determining price variation during contract execution must be incorporated into the contract agreement.

(vii) **Vetting of Contracts Documents by the DPPMB**

Project Designs (where applicable), Bills of Quantities, Quotations and other tendering documents in respect of any construction work, procurement or service contract whose value is Five Million Naira (N5,000,000.00) and above shall be vetted by the Due Process and Project Monitoring Bureau (DPPMB). Accordingly, Departments shall forward all documents in respect of contracts whose values exceed Five Million Naira (N5,000,000.00) to the DPPMB for vetting to ensure compliance with laid down rules and regulations and issuance of a **Due Process Certificate**. This Certificate must be presented to the relevant approving authority (LGTB or LEC) before approval is given for the award of the contract. The Bureau reserves the right to reject

any submission made to it which does not include all required/necessary documents.

The vetting process by the DPPMB shall be done within the following timeframe:

- (i) Contracts whose values are between N5, 000,000.00 to N10, 000,000.00; A maximum of 5 working days.
- (ii) Contracts whose values are between N10, 000,000.00 to N50, 000,000.00: A maximum of 2 weeks.
- (iii) Contracts whose values are between N50, 000,000.00 to N100, 000,000.00: A maximum of 4 weeks.
- (iv) Contracts whose values are N100, 000,000.00 or above: A maximum of 6 weeks.

The DPPMB can use its permanent staff, staff on secondment from any public service, consultants for the vetting exercise, depending on the situation. Notwithstanding, the Government reserves the right to engage the services of competent consultants to render similar services.

3.6 Other important Issues:

- (i) **Tenders Splitting:** It shall be regarded as a serious offence for any officer or contract awarding Agency to deliberately split contracts of works, procurement or engagement of services in order to circumvent the provisions of this operational manual. Such breach of the rules shall be subject to disciplinary action as may be prescribed in the Due Process Enabling Law or in the Civil Service Rules and Regulations;
- (ii) **Bid Security:** The contracts of N20,000,000.00 (Twenty Million Naira) and above shall attract a Bid Security in an amount of not less than 2% of bid price in the form of Bank Guarantee, issued by a reputable Bank;
- (iii) **Performance Bank Guarantee:** Performance Bank Guarantee, in an amount of 10% of contract price, shall be obtained for all contracts in the sum of N20,000,000.00 (Twenty Million Naira) and above and shall only be discharged after the full execution of the contract;
- (iv) **Procurement Plan:** Quarterly procurement plan shall be developed and used to determine the requirement of funds for various Government Offices at different quarters during the fiscal year. Such plans shall spell out the timing for different procurement actions and show the funding requirements at different stages.

Mobilization Fee: Mobilization fee, where necessary and appropriate, shall not exceed 50% of the contract sum (depending on the nature and scope of the contract). However, payment of such mobilization fee shall be effected upon written application and submission of an unconditional Bank Guarantee for equivalent amount valid until the goods are supplied or until the mobilization fee has been repaid in the case of works contracts. Only such unconditional Bank Guarantee issued by a reputable bank shall be accepted. Provided always that, where mobilization fee is given, it shall be fully recovered on or before the project reaches 70% completion.

CHAPTER FOUR

Basic Rules of the Contract Process

Contract awarding agencies shall be guided by the six basic principles in the contracting process. These six fundamental principles are as described below:

4.1 Advertisement as a Requirement

Equal access to information by all possible participants in the market of public contracts is fundamental to a free and fair competition. This is the major step in ensuring that any public procurement system derives the benefit of effectiveness, efficiency and value-for-money through a transparent and fair process. This explains why the Advertisement requirement is very important for passing the Due Process Compliance rule for openness and provision of level playing field for fair competition through an Open Competitive Tender.

A procuring entity shall be responsible for advertising directly, all invitations for pre-qualification or invitations to tender for goods, works and services. There are two categories of Advertisement Guidelines;

(i) Adverts for Contracts Between N5 Million and N100 Million.

Advertisements for contracts of this scope shall be placed on the Notice Board in a conspicuous layout at the Ministry, Agency or Department or other Public Institutions (such as Government Secretariat Building Local Government Secretariat, etc) and the Due Process Journal (if available). However, if the tendering is to be based on the Selective or Nominated procedure, subject to the observance of other Due Process procedures, there may not be the need for even the Notice Board advert. The selected or nominated contractors are just to be invited to make their bids.

(ii) Advert for Contracts Above N100 Million Naira (for State Contracts) and N20 Million. (for Local Government Contracts).

These require that an Advertisement calling for pre-qualification of contractors or invitation to bid to be placed in at least two National Newspapers. When available, Government Gazette and the Due Process

Journal could also be used in addition. All the Adverts for Pre-Qualification of contractors on any contract shall follow this standard format with the following basic information:

- (i) The name and address of the procuring entity;
- (ii) Introduction: a brief description of the object of the procurement, including desired time for delivery or completion;
- (iii) Scope of Work;
- (iv) A summary of the required qualification criteria;
- (v) The place and deadline for submission of the applications for pre-qualification; and
- (vi) The date of availability of the pre-qualification documents.

The time allowed for applicants to prepare their pre-qualification applications or bids shall not be less than 14 days from the date of placement of the Advert.

4.2 Pre-qualification as Requirement

In simple terms, upon the collation of the submissions of all respondents to an advertisement for pre-qualification, the relevant MDA shall analyze all the submissions made by the respondents to the Advert. The analyses shall be based on an objective set of technical and financial capacity criteria. The aim is to short-list/select competent respondents to the advert. It is also an opportunity to weed out those who do not qualify to participate in the commercial/financial bid. The criteria shall consist of the following sets of criterion:

A - Necessary Conditions (Do not attract any Mark):

- (i) Evidence of incorporation or business name registration: 0%
- (ii) Registration with Jigawa State Works Registration Board: 0%
- (iii) Audited Accounts of the Business for at least the last financial year: 0%
- (iv) Evidence of Tax Clearance Certificate for three years. 0%

B – Scored Conditions totaling 100%

- (i) Evidence of financial Capability and Banking support: 15%
- (ii) Experiences and technical qualifications of key personnel: 20%
- (iii) Similar projects executed and evidence of knowledge of the industry: 15%
- (iv) Equipment and technology capacity: 20%
- (v) Annual turnover: 5%
- (vi) VAT registration and evidence of past VAT remittances: 5%
- (vii) Citizenship(Individual/Corporate) of Jigawa State: 20%

All parameters with the zero score are considered responsive. The absence of any one would automatically disqualify an applicant from pre-qualification. The pre-qualification benchmark score which respondents can be considered to be competent is 70% and above.

The next stage is to draw up a **List of Pre-qualified Bidders (the Competent Bidders)** which shall include all respondents with at least 70% score each of whom is to be issued with an **invitation to tender or bid**.

4.3 Invitation to Tender / Bid

The tender documents shall follow the format of the standard tender document appropriate to goods, works or service to be procured as may be designed and periodically reviewed by the DPPMB. It shall contain sufficient information to enable competition among the bidders to take place on the basis of complete, neutral and objective terms. The Tender document shall be in two parts.² Technical and Financial and shall be submitted not more than four weeks after the bid documents were issued.

4.4 Opening Of Tender

Opening of bid/tender shall immediately follow the closing of bidding/tendering period. Present at the opening of bids/tender documents shall be the bidders themselves or their representatives and any other interested people or group including members of civil society, non-Governmental organizations, the press, etc. The Technical Bid is to be opened and conclusively evaluated before the Financial Bid can be opened.

4.5 Evaluation of Tender

The Tender submission by the pre-qualified bidders having been made in two parts - technical and financial - shall be evaluated by the Evaluation Team of the Appropriate Procuring Entity. The Procuring Entity shall appoint a Tender Evaluation Committee (TEC) at the appropriate level. The committee is to examine, evaluate and prepare a report with recommendations for the award of the contract for submission to the appropriate approving authority. At least three of the members shall have knowledge in the relevant project.

² Tender documents only required in two parts (Technical and Financial) where there was no prior prequalification of prospective contractors and bidders.

- (i) **The Technical Bid:** The submission of Technical Bid by only the pre-qualified firms help to further established scope and depth of their understanding of the specific assignment under consideration. A pre-qualified firm could be dropped during the evaluation process of the Technical Bid for showing less than desirable technical competency and capability to deliver the contract.

- (ii) **The Financial Bid:** The evaluation of Financial Bid of all firms that scaled through the technical bid evaluation is the final stage in a public procurement process. This is the stage where the cost at which the pre-qualified bidders (found competent in all areas) undertake to execute the job is evaluated in comparison with the cost (Bills of Quantities) estimated by either Due Process and Project Monitoring Bureau or the Consultant to the project.

4.6 Determination of a Winner

The Best Responsive Bidder with the lowest evaluated tender shall be adjudged the Right Winner. Simply put, the Winner in the bid process is that competent bidder (that is, a pre-qualified and technically evaluated bidder) that comes out of the financial competition offering the lowest price for the execution of the contract.

CHAPTER FIVE

Request for Due Process Review and Certification

5.1 Introduction

Having followed all the Due Process as outlined in chapter 3, Government Agencies are then required to document all the details of the contract award process and the conclusions and recommendations there-from. Depending on the expenditure threshold, the Agency is then required to submit detailed documents to the DPPMB for a Due Process compliance review and the issuance of a Due Process Compliance Certificate which will accompany the documents to the authority for the award of the contract (Governor or the State Executive Council as the case may be)

5.2 Documents Required for DPPMB Review and Certification

The following documents must be forwarded by a Procuring Entity to the DPPMB along with the Letter of Request (LOR) for Due Process Compliance Review and Certification for Award of Contract or Payment on on-going contract as the case may be:

- (i) Project policy file
- (ii) The background documents that include technical and financial preparation of the project by the spending units and which include but not limited to Bills of Quantities (if any), Contract Drawings and Engineering Designs, Other Related Technical Documents, Final Summary and Statements
- (iii) Internal cost estimates
- (iv) Evidence of advertisement, as appropriate
- (v) Pre-qualification Exercise, the objective criteria for short listing the pre- qualified bidders

- (vi) Pre-qualification evaluation report
- (vii) Evidence of Invitation to tender sent to all pre-qualified bidders
- (viii) Tender returns
- (ix) The Tender evaluation report and analysis of the financial bids submitted by all the pre-qualified bidders
- (x) Tender Evaluation reports showing Due Process compliance
- (xi) Variation in scope request and variation orders (for payment)
- (xii) Project Reports (for payment)
- (xiii) Interim valuation and payment certificates (for payment)
- (xiv) Consultant Work Progress Report (for payment)

5.3 The Review Process and Issuance of Certificates

The review process begins immediately a request for Due Process Compliance Review is received by the DPPMB from a Procuring Entity. The first step is to assign the task to the designated Team or the appropriate Technical Desk Officer in the Bureau. The Team may compose of staff of the Bureau only, staff on Secondment for the review purpose, Commissioned consultants or any combination of these. It is basically a review of the contract process and submissions made by procuring entities at the conclusion of their contracting procedure.

The Compliance Review Process is a three-pronged transparent exercise. This involves the DPPMB Team or Officer(s) establishing from the submissions of the Procuring Entity that from the way the Procuring Entity carried out the Due Process procedures in contract award:

- ✓ **The Process was right**
- ✓ **The Winner was right**

✓ **The cost of award was right.**

5.4 The Right Contract Award Process

The Right Contract Process is that which ensures that the rules governing pre-procurement planning, advertisement, pre-qualification, technical and financial evaluations are open, free and fair, transparent, and competitive. This shall be evident in the detailed documentation of the full range of the contracting procedure followed by the Spending Agencies submitted to the DPPMB for Due Process Compliance Review and other necessary action.

5.5 The Right Winner

The Right Winner is the Least Evaluated Tender Cost and the *Best Responsive Bidder*. The Right Winner is thus the most competent of the bidders having the least cost. A right winner is therefore that pre-qualified and technically evaluated bidder that comes out of the financial competition of procurement, offering the lowest evaluated cost.

5.6 The Right Contract Cost

The Right Cost of a contract is that amount that is competitively determined. It is the least amount offered in a competition amongst pre-qualified bidders. Right cost is also one that is comparable to an independently ascertained cost estimate following national, regional and international price benchmarks. However, for Contracts of Works and Services, Right Cost can be determined by applying basic rules of engineering and quantities costing, based on prevailing market rates to the scope of work.

CHAPTER SIX

The Review Process in the DPPMB

6.1 Introduction

The Compliance, Review and Certification process is to be rigorously and professionally performed by Technical Personnel *of the DPPMB* following a work flow system that places premium on Team Consensus. The merit of the Team Consensus approach is a guaranteed Systemic Quality Assurance (SQA) method that removes sole responsibility and discretion from the review, findings, conclusions and final recommendations of the DPPMB. This means that no single member of the Team can guarantee an outcome of the Review Process.

The DPPMB Technical Personnel either as individuals or Review Team shall be specialist(s) who possess wide range of knowledge and competencies, skills, professionalism and integrity requisite for the discharge of the Bureau's mandate. The areas of expertise required for the review exercise range from Engineering to Environmental Sciences, Information Technology & Communication, Education, Medical and Biological Sciences, Estate & Property Development, etc. The DPPMB shall also have access to global Price Database as well as technical linkages with relevant professional bodies both in Nigeria and abroad. Hence, the Bureau can easily ascertain the true prices of goods, works and services under review.

6.2 Draft Due Process Review Report (DDPRP)

The Compliance Review Process for every contract above ₦100 million threshold results into a Draft Due Process Review Report (DDPRP). If the review report does not support the issuance of a Due Process Certificate, the attention of the Procuring Entity is immediately drawn to the findings and recommendations contained in the Draft Due Process Review Report. Such reports shall never be unilaterally concluded by the DPPMB into a final Due Process Review Report without offering the Procuring Entity (the relevant MDA) the opportunity for a **Right of Reply Meeting**.

6.3 Right of Reply Meeting

Where a Due Process Certificate is denied in accordance with the findings and conclusions drawn from a Compliance Review of a contract, a Right of Reply Meeting shall be convened. This meeting provides an opportunity to formally discuss and get clarifications possibly leading to a resolution of any contentious issue between the Bureau and the relevant MDA. The meeting shall involve all officers from the Ministry, Agency or Department and all members of the Compliance Review Team, sitting at an open forum to discuss the content of the report of the review process.

The Right of Reply represents the transparent and democratic institutional feed-back platform for the Bureau. It ensures accountability and open check on the work of the Bureau by the Procuring Entities.

6.4 Due Process Review Report

During the Right of Reply Meetings, if additional information is provided, supported with superior arguments and documentations that can make the Bureau change its position on earlier conclusion, then the Bureau would

immediately approve. The Bureau will then issue a Due Process Certificate for the award of the contract for the consideration of the contract awarding authority (Governor or the State Executive Council).

6.5 The Due Process Review Report

The content of every project's Due Process Review Report shall include the following:

- (i) Introduction
- (ii) Background of the project
- (iii) Project Description
- (iv) Budgetary Provision
- (v) Project Benefits
- (vi) Review of Project Planning Process
- (vii) Project Preparation
- (viii) Implementation of Planning
- (ix) Review of Project Procurement Process
- (x) Procurement Background
- (xi) Tender Advertisement
- (xii) Tender Returns
- (xiii) Evaluation Bids
- (xiv) Technical Proposal
- (xv) Commercial Proposals
- (xvi) Findings
- (xvii) Due Process Compliance Test
- (xviii) Conclusions

The Bureau considers each Due Process Review Report as a public document that can be made available to any interested member of the public or bidders.

CHAPTER SEVEN

Results of Compliance Review

7.1 Outcomes of Compliance Review

There are three possible outcomes at the end of a Compliance Review exercise by the **DPPMB**. These three possible outcomes are categorized as **A, B** and **C**.

7.2 Category A Outcome (Positive)

Category A Outcome leads to the granting of a Due Process Certificate. If at the end of the Compliance Review exercise, the findings show that all the defined rules of public contracting were duly complied with by the Procuring Entity in the procurement exercise, the Due Process Review Report would recommend issuance of a Due Process Certificate for Award of Contract.

For a Due Process Certificate to be issued by DPPMB the Compliance Review must validate that the Contract Award Process followed by the Procuring Entity was Right, the Winner being recommended is Right and the Cost is Right.

7.3 Category B Outcome (Negative)

Category B Outcome leads to the denial of a Due Process Certificate. If the contract process does not conform to the standard defined as a right contract award process, the DPPMB is to withhold Due Process Certification. The Bureau shall only advise the Spending MDA to re-procure. This is because “the Process is fundamental in public procurement in determining the right cost and the right winner”.

7.4 Category C Outcome (Conditional Approval)

Category C Outcome leads to the granting of a Conditional Approval – subject to the fulfillment of certain requirements. This is where the cost posted by an emerging winner in a right contract process is higher than the fair market cost. The issuance of a Due Process Certificate for Award of the contract is made in principle but delayed until the satisfaction of the cost accuracy and conformity with parameters established by the Review. In such an instance, a meeting of all stakeholders could be convened by the procuring entity at the advice of the DPPMB where the winner would be advised to reduce the cost to conform to Compliance Review Estimated Cost. This is because the Bureau, with its expertise and the information technology tools, shall be able to easily ascertain the true or right cost of all goods, services and works. The idea here is to ensure that the cost that is eventually accepted to both sides on the project is one that can be comparable to similar procurements elsewhere in the Federation.

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

7.5 Meeting During the Review Process

In the course of a Due Process review, the DPPMB and the spending MDAs shall meet as often as necessary to resolve contentious issues that will help in making the best decision and securing the best outcome for public expenditure and financial management. Prompt response to DPPMB invitation for such a meeting or request for additional documentation whenever it arises is quite important in avoiding delays in the review process and in the project execution. Efficient supply of all relevant information would enable the DPPMB *to complete the Compliance Review process within the specified timeframe*. The Bureau is to check the appropriate boxes on the Due Process Checklist and return to the spending MDA to guide them in packaging the missing documents necessary for the Compliance Review.

CHAPTER EIGHT

Due Process Certification

8.1 Introduction

Due Process Certification means issuance of a Due Process Certificate to the Procuring MDA for complying with the Due Process procedures. This is done after a careful review of the process that produced the winner and cost of the contract. A certificate is issued after the process, the winner and the cost have been found to be open and transparent by the DPPMB during the review.

No Ministry, Department or Agency (MDA) shall pay for any capital project without a Due Process Certificate.

The Accountant-General of the State shall not make any payments in respect of any capital project except if the request for such payment is accompanied by Due Process Certificate among other required documentations.

The Certificates are important instruments of incentive or sanction, as the case may be, for Procuring MDAs in their compliance or non-compliance with the clearly defined procedures of the contract process. The certification process would be particularly effective as an instrument for public sector behavior modification and change orientation to achieve compliance with rules. It is hoped that with strict application, compliance would be obtained from the MDAs.

8.2 Types of Due Process Certification

- (a) Due Process Certificate for Contract Award
- (b) Due Process Certificate for Payment

8.2.1 Due Process Certificate for Contract Award

The Due Process Certificate for Award of Contract is issued when the Review of the submissions made by a Spending MDA to the Due Process Office, is verified that the contract in question passed the Three Tests of Due Process Review as follows:

The Process is right

The Winner is right

The Cost is right

The Due Process and Project Monitoring Bureau(DPPMB) Certificate shall be a pre-requisite for the State Executive Council's (SEC) grant of final approval for award of all contracts that are ₦20 million and above.

CHAPTER NINE

9.1 Introduction

The DPPMB is to work with a check-list of documents that are required for the proper conduct of compliance review before certification, especially in respect of contracts valued at N100, 000,000 and above. The Certification would take three different dimensions, classified as A, B and C below.

9.2 Category of Due Process Review Certificates

9.2.1 A: Certificate of Project Readiness for Implementation

A1. ALIGNMENT OF PROJECT WITH JIGAWA STATE'S STRATEGIC AND SECTORAL PRIORITIES: Indicate any relevant laws, regulations and guidelines and State whether the proposed project is in compliance. Indicate geographical spread and position in ministerial priorities. The presence of a project in the Appropriation Law is evidence of compliance with this criterion.

A2. TECHNICAL & ECONOMIC APPRAISAL OF THE PROJECT: Indicate whether a feasibility study has been undertaken or whether one is planned. Include the final report and or Terms of Reference for the planned work. Indicate whether a financial/economic analysis has or will be conducted. Include the final report and or Terms of Reference for the work. If any of these studies is considered not necessary, provide an explanation.

A3. PROJECT & CONSULTANT / ENGINEERS ESTIMATES: Indicate whether cost is in line with the consultant's/ engineer's estimate – provide documentation.

A4. PROJECT DESIGNS: Include project designs and drawings. Consultant's preliminary and tender drawings shall be provided where necessary. This is especially important for building and engineering projects.

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

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

A7. OPERATIONS AND MAINTENANCE MANUAL: Operations and maintenance manual shall be provided where required, particularly for plants and machinery procurement.

9.2.2 B: Certificate of Procurement

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

B2. PRE-QUALIFICATION DOCUMENTS: Indicate whether pre-qualification was conducted, and if not whether post – qualification was provided for in the bidding documents. Include copies of pre-qualification documents.

B3. LETTER OF INVITATION TO BID: Provide copies of letters of invitation to bid for pre-qualified contractors.

B4. BID DOCUMENTS: Provide evidence that tender documents have been prepared in line with the Jigawa State Government guidelines/standards. Also provide copy of public advertisement. Provide evidence that adequate time was provided to obtain and prepare bids.

Provide evidence that a public bid opening was conducted, if so, how long after the deadline for bid submissions and who was invited? Indicate whether bid opening procedures followed those specified in the Jigawa State Government's procurement guidelines. What information was read out at the opening ceremony? Provide copies of the Minutes. Provide accurate records of all communications with bidders, before and after the deadline for submissions.

B5. PROJECT DESIGNS AND DRAWINGS: Indicate whether project designs and drawings have been prepared. If so, provide copies – this is especially important for building and engineering projects.

B6. BIDS RETURN SHEET: Provide copies of bids returns sheet duly signed by the representative of DPPMB, the Executing MDA and all bidders present.

B7. BID EVALUATION REPORT: Provide details of members of Bid Evaluation Committee, indicating the designation and experience. Provide the basis of criteria for evaluation of bids and indicate how the evaluation criteria were applied, and how successful bidders' qualifications were verified. Provide copies of evaluation criteria and evaluation report. Provide evidence that a market survey was conducted to update knowledge of prevailing prices that are relevant to the project. Indicate whether contract process is comparable with international

experience and with experience in the private sector -provide documentation.

B8. EVIDENCE OF APPROVAL OF SELECTION BY MANAGEMENT: Indicate whether selection was approved by management and what changes were made by management and why? Provide copies of letter of award of contract.

B9. BID BOND: Indicate whether bids bonds were submitted with bids-provide documentation.

B10. ENGINEER'S, CONSULTANT'S OR IN-HOUSE ESTIMATES: Provide engineers, consultant or in-house project estimates. Indicate whether these were done before bidding and whether they are comparable to international prices on similar projects in similar State or countries.

B11. APPROPRIATION / FUNDING: Indicate whether there is provision for the project in the relevant Appropriation Law or indicate what efforts are being made to prioritize the project towards securing appropriation for the project up to completion.

9.2.3 C: Certificate of Implementation

C1. POLICY FILE: Provide the policy file for the project.

C2. SEC APPROVAL: Provide evidence of all the relevant State Executive Council memos and approval for the project.

C3. APPROPRIATION / FUNDS: Indicate whether there was appropriation for the project in the main or supplementary appropriation laws and also indicate whether or not funds have already been released to the executing MDA's account.

C4. CONTRACT AGREEMENT: Provide copies of the original contract agreement and all other addendums to the contract such as Bills of Quantities, etc.

C5. PERFORMANCE SECURITY AND BOND: Provide copies of performance securities and Bonds.

C6. EVIDENCE OF UTILISATION OF EARLIER RELEASED FUNDS: Provide documentation and evidence of funds released. Provide evidence of payment from these funds.

CHAPTER TEN

10.0 BIDDING REGULATION

10.1 Bidding of Contract above 100 million in case of the State and 20 million in case of the Local Government.

10.1.1 All bidders of contract the price of which is above 100 million naira in case of the State and 20 million in case of the Local Government in addition to requirements contained in any solicitation documents shall:

- a. Possess the necessary -
 - i. professional and technical qualifications to carry out particular procurements;
 - ii. financial capability;
 - iii. equipment and other relevant infrastructure;
 - iv. personnel to perform the obligations of the procurement contracts.
- b. possess the legal capacity to enter into the procurements contract;
- c. not be in receivership, the subject of any form of insolvency or bankruptcy proceedings;
- d. have fulfilled all its obligations to pay taxes;
- e. not have any Director who has been convicted in any country for any criminal offence relating to fraud or financial misappropriation or criminal misrepresentation or falsification of facts relating to any matter;

- f. accompany every bid with an affidavit disclosing whether or not any officer of the relevant committees of the procurement entity or Bureau is a former or present Director, shareholder or has any pecuniary interest in the bidder and confirm that all information presented in its bid are true and correct in all particulars.

10.2 EXCLUSION OF BIDDER FROM PROCUREMENT PROCEEDING

10.2.1 Whenever it is established by a procuring entity or the Bureau that any of the following situations exists, the bidder may have its bid or tender excluded from any particular procurement proceeding if:

- a. there is verifiable evidence that any supplier, contractor or consultant has given employment or any other benefits, item or a service that can be quantified in monetary terms to a current or former employee of a procuring entity or the Bureau, in an attempt to influence any action, or decision of any procurement activity;
- b. a supplier, contractor or consultant during the last three years prior to the commencement of the procurement proceedings in issue, failed to perform or to provide due care in performance of any public procurement;
- c. the bidder is in receivership or is subject to any type of insolvency proceedings or being in a private company, is controlled by a person or persons who are subject to any bankruptcy proceedings or who have been declared bankrupt and have made any compromises with creditors within two years to the initiation of the procurement proceedings;

- d. the bidder is in arrears of payment of taxes;
- e. the bidder has been validly sentenced for a crime committed in connection with a procurement proceeding or any other crime committed to gain financial profit;
- f. if the bidder fails to state its relationships with other parties to the proceedings and persons acting on behalf of the procuring entity in same proceedings.

CHAPTER ELEVEN

11.0 CONDITIONS FOR THE VALIDITY OF PROCUREMENT

11.1 Principle of procurement

11.1.1 All procurement shall only be made:

- (a) in accordance with approved plans supported by prior budgetary appropriations and no procurement proceedings shall be formalized until the entity has ensured that funds are available to meet the obligations and subject to the threshold under this regulation.
- (b) by open competitive, selective or nominative tendering as the case may be;
- (c) in a manner which is transparent, timely, equitable for ensuring accountability and conformity with the law and this regulations.
- (d) With the aim of achieving value for money and fitness for purpose; and
- (e) In a manner which promotes competition, economy and efficiency.

11.1.2 Every procuring entity shall maintain both file and electronic records of all procurement proceedings made within each financial year.

11.1.3 Such records shall be transmitted to the Bureau not later than six months after the end of the financial year.

11.1.4 All procurement records that are unclassified shall be open to inspection by the public at the cost of copying and certifying the documents as may be prescribed by the Bureau.

11.1.5 A contract shall be awarded to the lowest evaluated responsive bidder, but the Bureau may refuse to certify a contract for award on the ground of excessive pricing.

11.1.6 The Bureau may either direct that the procurement proceeding be entirely cancelled or that the procuring entity conduct a re-tender.

11.2.0 Disposal of public property

11.2.1 The disposal of public property shall primarily be through open competitive bidding in accordance with Stores Regulations.

11.2.2 The means of the disposal of public assets shall include:

- a. Sale and rental;
- b. Lease and hire purchase;
- c. Licenses and tenancies;
- d. Franchise and auction;
- e. Transfers from one government department to another with or without financial adjustments; and
- f. Offer to the public at an authorized variation.

11.3.0 Equality in Procurement proceedings

11.3.1 The procuring entity shall ensure that all public procurement shall be by offering to every interest bidder equal information and opportunity to offer the goods and works needed.

11.3.2 The Bureau shall stipulate methods and procedures of invitation, opening, examination and evaluation of bids to ensure open and competitive bidding.

11.4.0 Procurement of Service

11.4.1 The Bureau shall provide the procedure for procurement of services of consultant and other service providers which shall include the manner for request of proposal, its content, evaluation and selection procedure.