

A BILL

FOR

AN ACT TO ESTABLISH THE FEDERAL INFRASTRUCTURE MANAGEMENT AGENCY AND FOR CONNECTED PURPOSES, 2015

Sponsored by Hon. Rotimi Agunsoye

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1 1.-(1) There is established a body to be known as the Federal of Establishment of
2 Agency Infrastructure Management Agency (referred to in this Act as "the Agency
3 Agency").

4 (2) The Agency-
5 (a) shall be a body corporate with perpetual succession and a
6 corporate seal;

7 (b) may sue and be sued in its corporate name; and

8 (c) may acquire, hold, manage and dispose of any property or
9 interest in property, moveable or immovable for the purposes of carrying
10 out its functions under this Act.

11 2. The objectives of this Act are to- Objectives of the
12 (a) provide for the effective preservation and maintenance of assets Act
13 owned or controlled by government;

14 (b) provide a uniform management framework for sustainability,
15 efficiency and accountability in the use and management of such assets;

16 (c) ensure coordination in the use of assets within the service
17 delivery objectives of the government;

18 (d) optimize the cost of service delivery by-

19 (i) ensuring proper monitoring and accountability for capital and
20 recurrent works;

21 (ii) establishing a system for regular maintenance and

Functions of the
Agency

- 1 refurbishment of assets;
- 2 (iii) undertaking proper disposal of used assets;
- 3 (iv) improving health and safety in the work environment.
- 4 3.-(1) The functions of the Agency are to-
- 5 (a) develop a consistent approach to Asset Management across all
- 6 Ministries, Departments and Agencies (MDAs) of government, with the
- 7 exemption of assets under concession with operators having a Public- Private
- 8 Partnership Agreement;
- 9 (b) create an Asset Register that meets international standards;
- 10 (c) draw up master plan towards the management and maintenance of
- 11 assets of the government;
- 12 (d) create performance benchmarks;
- 13 (e) determine service levels for each asset class;
- 14 (f) establish assessment procedure for government assets;
- 15 (g) act as consultant in conjunction with the MDAs in facility
- 16 management and maintenance;
- 17 (h) ensure compliance with relevant statutory provisions;
- 18 (i) monitor and co-ordinate outsourced facility management services;
- 19 (j) plan, implement and monitor all private and government owned
- 20 asset;
- 21 (k) supervise all aspects of facilities management and maintenance
- 22 with a view to ensuring that all public assets, facilities and installations are
- 23 operating at optimal capacity;
- 24 (l) approve and register facility Managers;
- 25 (m) perform periodic audit of government owned infrastructure and
- 26 assets and advise on the maintenance or disposal of such assets;
- 27 (n) co-ordinate performance of outsourcing management scheduled
- 28 and unscheduled maintenance works, including but not limited to general
- 29 cleaning, fumigation, painting, furniture works and fixtures, mechanical and
- 30 electrical maintenance, replacement of spare parts, maintenance of sewage and

1 drainage systems and horticultural requirements, of all and any other
2 government owned premises; and

3 (o) any other function that may be necessary for the attainment of
4 the objectives of this Act.

5 (2) Without prejudice to the generality of subsection (1) of this
6 Section in performing its functions under this Act, the Agency shall-

7 (a) advise and make recommendations as may be appropriate to the
8 President, the Minister, any MDA or Body of government, in relation to any
9 policy matter, legislative proposal or other matters concerning or likely to
10 affect asset management of the government;

11 (b) foster and promote contracts, co-operation and exchange of
12 information with MDAs of government on asset management;

13 (c) co-operate with other competent authorities, organizations or
14 persons whether within the government or elsewhere charged with the
15 responsibilities of asset management;

16 (d) promote public awareness, publicity and campaigns for the
17 purpose of educating all concerned on the use and management of public
18 infrastructure and facilities; and

19 (e) acquire adequate information on all new infrastructure projects
20 of the government.

21 4.-(1) The affairs of the Agency shall be administered by a
22 Governing Board (referred to in this Act as "the Board") which shall set
23 guidelines for the management of the Agency and ensure compliance with
24 the provisions of this Act and Regulations made under it.

25 (2) The Board shall consist of-

26 (a) a Chairman, who shall be the Minister in charge of Works;

27 (b) six (6) members; and

28 (c) the Director General of the Agency.

29 (3) The members of the Board shall be persons knowledgeable and
30 experienced in matters relevant to the functions of the Agency and shall be

1 appointed by the President.

Functions of the Board

2 5. The functions of the Board shall be to-

3 (a) set guidelines for the management of the Agency and ensure
4 compliance with the provisions of this Act and Regulations made under it;

5 (b) provide general policy guidelines for the functions of the Agency,
6 ?x and supervise the implementation of such policies;

7 (c) ensure the effective and optimum performance of the Agency;

8 (d) approve the drawn up master plan towards management and
9 maintenance of assets of the government;

10 (e) ensure that all assets currently in use are operational, efficient and
11 also meets the standard set by the Agency;

12 (f) administer the funds of the Agency; and

13 (g) work with the Agency towards the attainment of its objectives and
14 perform such other functions as are in the opinion of the Board necessary to
15 ensure efficient performance of the Agency.

Tenure of Office of the Board

16 6. Subject to the provisions of this Act, the members so appointed
17 under Section 4(2) shall hold office for a period of five (5) years and may be
18 eligible for re-appointment for another term of five (5) years and no more.

Remuneration and Allowances

19 7. The members of the Board who are not public officers shall be paid
20 such remuneration and allowances as may be determined and approved by the
21 President.

Cessation and Removal from Office of member of the Board

22 8.-(1) A person shall cease to hold office as a member of the Board if
23 he-

24 (a) is adjudged bankrupt;

25 (b) is convicted of an offence involving fraud or dishonesty; or

26 (c) has a conflict of interest that, in the opinion of the President,
27 requires that the person should cease to hold such office.

28 (2) A member of the Board may at any time resign from office by a
29 letter addressed to the President and the resignation shall take effect on the date
30 specified in the letter or the date the letter is received by the President.

1 (3) The President may at any time remove a member of the Board
2 from office, if, in his opinion-

3 (a) the member has become incapable through ill-health to
4 effectively perform the duties of the office;

5 (b) the removal appears to be necessary for the effective
6 performance of the functions of the Board

7 (4) The Board may act notwithstanding any vacancy or vacancies
8 in its membership.

9 9. The Agency shall appoint a Secretary/Legal Adviser who shall-

Secretary/Legal
Adviser of the
Agency

10 (a) be a Legal practitioner with a minimum of ten (10) years post-
11 call experience and not be below Grade Level 14;

12 (b) be responsible to the Board;

13 (c) issue notices of meetings as may be directed by the Chairman
14 and serve as its Secretary;

15 (d) keep and ensure security of records of proceedings of the
16 Board; and

17 (e) carry out such other duties as may be assigned to him by the
18 Director General or the Board.

19 10. The Agency may appoint consultants, contractors or other
20 service providers for the purpose of management and maintenance of
21 government assets and who shall be bound by any concession agreement
22 entered into by Government in relation to any public asset.

Appointment of
Consultants

23 11.-(1) The Board shall hold its meetings as frequently as may be
24 necessary for the performance of its functions but not less than six
25 (6) times in a year.

Meetings and
Proceedings of
Board

26 (2) Subject to the provisions of this Act, the proceedings of the
27 Board shall be regulated by Standing Orders.

28 12.-(1) The quorum for a meeting of the Board shall be four (4)
29 members.

Quorum

30 (2) The Chairman shall preside at every meeting of the Board and

- 1 in his absence any member so appointed except the Director General.
- Voting Members 2 **13.**-(1) The decision of the Board shall be by majority votes of the
3 members present at the meeting and each member shall be entitled to only one
4 vote.
- 5 (2) Where there is equality of votes at a meeting, the Chairman or any
6 member presiding at such meeting shall have a casting vote.
- Appointment of
the Director-
General 7 **14.**-(1) There shall be for the Agency a Director General who shall be
8 the Chief Executive Officer of the Agency.
- 9 (2) The Director General shall be appointed by the President.
- 10 (3) The Director General-
- 11 (a) shall hold office under a written contract of service for a term of
12 five years, and on such other terms and conditions as are specified in the
13 contract of service; and
- 14 (b) may serve a second term of five (5) years, if re-appointed.
- 15 (4) The Director General shall not hold any other office or occupy any
16 other position or carry on any other business in respect of which emoluments
17 are payable.
- 18 (5) The Director General may be removed from office by the
19 President if in his opinion such removal is in the interest of the nation or the
20 Agency.
- Functions of the
Director-General 21 **15.**-(1) The Director General shall manage and control-
- 22 (a) staff, administration and business of the Agency;
- 23 (b) the establishment and development of a management structure
24 with appropriate departments and units; and
- 25 (2) The Director General shall be responsible for the day to day
26 administration of the Agency.
- 27 (3) The Director General may perform such other functions as may be
28 conferred on him under this Act or as may be determined by the Board with the
29 approval of the President.
- 30 (4) The Director General shall advise the Board in relation to the

1 performance of the functions of the Agency and shall make proposals to the
2 Board on any matter relating to the activities of the Agency.

3 (5) The Director General may do such acts that are expedient or
4 necessary for the purpose of exercising his functions under this Act.

5 16. Where the Agency desires to obtain the advice of any person(s) Power to C-opt
6 on any matter, the Agency may co-opt such person(s) to attend any of its
7 meetings for that purpose and the co-opted person(s) shall not be entitled to
8 vote or count towards a quorum.

9 17.-(1) The Agency may, with the approval of the President employ Staff of the Agency
10 or seek deployment from the Federal Civil Service such number of persons
11 as it may from time to time require to be members of staff of the Agency.

12 (2) The terms and conditions of service, including terms and
13 conditions of employment in the Agency shall be as applicable in the Federal
14 Civil Service.

15 18.-(1) There shall be a common seal of the Agency. Seal of the Agency

16 (2) The seal of the Agency shall be authenticated by the signature
17 of the Chairman or any member of the Board authorized in that behalf.

18 (3) Judicial notice shall be taken of the seal of the Agency and any
19 instrument purporting to be an instrument made by the Agency with its seal
20 shall be received in evidence and shall be deemed to be such instrument
21 without further proof unless the contrary is shown.

22 (4) Any contract or instrument which does not require to be under
23 seal may be entered into or executed by any person duly authorized in that
24 behalf by the Agency.

25 19.-(1) A person shall not, unless authorized by the Agency or by a Prohibition of
26 Member of staff of the Agency duly authorized in that behalf, disclose Unauthorised
27 confidential information obtained by him or her in his/her official capacity, Disclosure of
28 or while performing duties as- Information

29 (a) a member of the Board or of a committee set up by the Agency;

30 (b) the Director General;

- 1 (c) a member of staff of the Agency;
- 2 (d) a consultant or adviser engaged by the Agency or an employee of
- 3 such a consultant or adviser;
- 4 (e) an inspection officer; or
- 5 (f) a person engaged by the Agency in any other capacity.

6 (2) The provisions of subsection (1) above shall not apply to-

7 (a) a communication made by a member of the Board, the Director

8 General, a member of staff of the Agency or any other authorized person, in the

9 performance of any of the functions under this Act, being a communication the

10 making of which was necessary for the performance of any such function; or

11 (b) the disclosure by a member of the Board or the Director General, a

12 member of staff of the Agency or any other authorized person to any member of

13 the Nigerian Police of information which, in his opinion, may relate to the

14 commission of an offence under this or any other Act.

15 (3) Nothing in subsection (1) of this Section shall prohibit the

16 disclosure of information by means of a report made-

- 17 (a) to the Board or a committee, as the case may be; or
- 18 (b) by or on behalf of the Board or a committee to the President.

Disclosure of
interests

19 20. Where the Director General, a member of the Board, a member of

20 staff of the Agency, a consultant, adviser or any other person engaged by the

21 Agency has a pecuniary interest or other beneficial interest in, or material in,

22 any matter which is to be considered by the Board, the person shall-

- 23 (a) disclose to the Board the nature of the interest in advance before
- 24 consideration of the matter;
- 25 (b) neither influence nor seek to influence a decision relating to the
- 26 matter;
- 27 (c) not take part in the consideration of the matter; and
- 28 (d) withdraw from the meeting as long as the matter is being discussed
- 29 or considered and neither vote nor otherwise act in consideration of the matter.

1 **21.-(1)** The Agency shall enforce the following principles of asset Principle of
2 management- Asset Management

3 (a) an asset must be used efficiently and becomes surplus to a user
4 if it no longer supports its service delivery objectives at an efficient level and
5 if it cannot be upgraded to that level;

6 (b) minimize the demand for assets, alternative service delivery
7 methods that do not require asset acquisition must be identified and
8 considered;

9 (c) in relation to acquisition, it must be considered whether-

10 (i) an asset currently used by the custodian is adequate to meet the
11 change in its delivery objectives; and

12 (ii) the cost of the asset as well as its operational and maintenance
13 costs throughout its life cycle justifies its acquisition in relation to the value
14 of the service to be delivered.

15 (d) assets that are currently in use must be kept operational to
16 function in a manner that supports efficient service delivery;

17 (e) when an asset is acquired or disposed of, best value for money
18 must be obtained or realized in accordance with the Public Procurement Act;

19 (f) in relation to disposal, the custodian must consider whether the
20 asset concerned can be used-

21 (i) by another user or jointly by different users;

22 (ii) in relation to social development initiatives of government; and

23 (iii) in relation to government's socio-economic objectives.

24 **22.-(1)** As from the commencement of this Act, every Ministry,
25 Department or Agency of government is declared User of Assets.

Designation of
User and Custodian
of Assets

26 **(2)** A Custodian shall-

27 (a) act as caretaker in relation to assets of which it is the custodian;

28 (b) be responsible for the performance of the functions assigned
29 under the provisions of this Act or any agreement with the Agency;

30 (c) be liable for any act or omission in relation to asset of which it is

1 the custodian, excluding an act or omission in good faith.

Minimum
contents of Asset
Management Plan

2 **23.** An Asset Management Plan must consist of at least-

3 (a) a portfolio strategy and management plan;

4 (b) a management plan for each asset throughout its life cycle;

5 (c) a performance assessment of the asset;

6 (d) a condition assessment of the asset;

7 (e) the maintenance activities required and the total and true copy of
8 the maintenance activities identified; and

9 (f) a disposal strategy, if need be.

Preparation of
Management
Plans

10 **24.**-(1) A Custodian shall-

11 (a) prepare an Asset Management Plan in such a manner as may be
12 prescribed by the Agency in relation to all the assets in its custody at the end of
13 every calendar year;

14 (b) prepare a User Management Plan, which relates to all the assets
15 which the Custodian uses or intends to use in support of its activities.

16 (2) When preparing an Asset Management Plan, the Accounting
17 Officer of the Custodian shall-

18 (a) meet the objectives of this Act;

19 (b) adhere to the principles of asset management as stated in Section
20 21;

21 (c) adhere to any guideline, regulation and standard made by the
22 Agency in accordance with the provisions of this Act.

Minimum
contents of user
management plan

23 **25.** A User Management Plan must consist of at least-

24 (a) a strategy needs assessment;

25 (b) an acquisition plan;

26 (c) an operation plan;

27 (d) an asset surrender plan; and

28 (e) user to give effect.

29 **26.** A user must give effect to its User Management Plan and conduct
30 regular assessments in a manner which is consistent with the provision of this

User to give
effect to
Management Plan

1 Act and its accepted plan.

2 27. The Accounting Officer of a Custodian shall submit his Asset
3 Management Plan and User Management Plan to the Agency on or before
4 30th June of every year.

Submission of
Management Plan

5 28.-(1) The Agency shall within thirty (30) days consider the
6 Custodian Asset Management Plan and User Management Plan submitted to
7 it.

Approval of
Management Plan

8 (2) The Agency may-

9 (a) approve the management plan;

10 (b) reject the management plan.

11 (3) Where a management plan is rejected, the Custodian shall
12 submit a fresh plan within fourteen (14) days of being informed of the
13 decision of the Agency.

14 29. An Asset Management Plan approved by the Agency shall-

Status of Asset
Management

15 (a) be the principal asset strategic planning instrument which
16 guides and informs all asset management decision by the user;

17 (b) bind the user in the exercise of its executive authority, except to
18 the extent of any inconsistency between an Asset Management Plan and this
19 Act, in which case this Act prevails.

20 30.-(1) The Agency shall, not later than four (4) months to the end
21 of every fiscal year, submit to the President a report of the assets of the
22 federal government.

Annual Report
of the Agency

23 (2) The report must contain at least-

24 (a) standardized information about all assets of the federal
25 government;

26 (b) the last valuation of the assets;

27 (c) factual and quantitative information of the performance of the
28 assets in meeting delivery needs;

29 (d) strategies for management of the assets.

Offences and Penalties

1 31-(1) It is an offence to wilfully contravene or fail to comply with
2 any provision of this Act.

3 (2) If an offence under this Act is committed by a user and is proved to
4 have been attributed to the consent, connivance or approval of, or to have been
5 attributable to any neglect on the part of any person being a Custodian,
6 Director, Manager, Secretary or any other officer of the user or a person
7 purporting to act in any such capacity, that person commits an offence.

8 (3) If a User commits an offence under this Act, an employee, officer,
9 Director or agent of the user who authorizes, permits or aids in the commission
10 of the offence also commits an offence.

11 (4) A person guilty of an offence under the provisions of this Act is
12 liable on conviction to a fine not exceeding two hundred and fifty thousand
13 Naira (N250,000.00), or imprisonment for a term not exceeding one (1) year or
14 both.

Defence of due Diligence

15 32-(1) In proceedings for an offence under this Act, it is a defence for
16 the defendant to prove the following-

17 (a) that the commission of the offence was due to a mistake or reliance
18 on information supplied to the defendant or due to the act or default of another
19 person, or an accident or some other cause beyond the defendant's control; and

20 (b) the defendant exercised due diligence and took all reasonable
21 precautions to avoid commission of the offence.

22 (2) If the defence provided by subsection (1) involves the allegation
23 that the commission of the offence was due to reliance on information supplied
24 by another person or to the act or default of another person, the defendant shall
25 not, without leave of the Court, be entitled to rely on that defence unless-

26 (a) it is not less than seven working days before the hearing;

27 (b) the defendant has served on the prosecution a written notice
28 providing information identifying or assisting in the identification of that other
29 person;

1 **33. On conviction of a person for an offence, the Court shall, unless**
 2 **satisfied that there are special and substantial reasons for not so doing-**

Convicted persons
 liable for costs
 expenses of
 Proceedings

3 **(a) Order the person to pay the cost and expenses of investigation,**
 4 **detention and prosecution of the offence incurred by the Agency as**
 5 **calculated by the Court;**

6 **(b) an order for costs and expenses under Subsection (a) is in**
 7 **addition to any fine or penalty the Court may impose.**

8 **34. Prosecution of offences under this Act shall be by the**
 9 **Attorney-General of the Federation or his officers or any other Legal**
 10 **Practitioner with the consent of the Attorney-General of the Federation.**

Prosecution

11 **35. Any offence under this Act shall be triable by the Federal High**
 12 **Court.**

Jurisdiction

13 **36.-(1) Subject to Law, the Agency may prepare, issue and**
 14 **publish guidelines and regulations not inconsistent with this Act with regard**
 15 **to any matter that is required or permitted to be prescribed in terms of this**
 16 **Act and any other incidental or administrative matter necessary for the**
 17 **proper administration and implementation of this Act.**

Agency Guidelines
 and Regulations

18 **(2) Before issuing and publishing guidelines and regulations under**
 19 **this Section, the Agency may prepare and circulate draft guidelines and**
 20 **regulations and consult with any person, persons or organization as the**
 21 **Agency considers appropriate.**

22 **37. In this Act-**

Interpretation

23 **"Government Asset" means any property, whether movable or immovable**
 24 **acquired or owned by the Federal Government located in all the states of the**
 25 **Federation and the Federal Capital Territory;**

26 **"Minister" means the Minister for Works or any other public officer for the**
 27 **time being charged with the responsibility of the Federal Ministry of Works;**

28 **"Custodian" means a Ministry, Department or Agency of government who**
 29 **acquired and is in control of an asset;**

30 **"Infrastructural Asset" means any real property owned, leased or otherwise**

- 1 managed by the Federal Government in all the states of the Federation and the
2 Federal Capital Territory;
- 3 "Financial Year" means a period of 12 months ending on 31st December or any
4 other date as may be adopted by the Federal Government in any year and, in the
5 case of the first financial year of the Agency, means the period commencing on
6 the establishment day and ending on 31st December in the year in which the
7 establishment falls;
- 8 "President" means the President, Commander-in-Chief of the Armed Forces,
9 of the Federal Republic of Nigeria;
- 10 "Law Officer" means a lawyer with the Federal Government under the
11 Attorney-General of the Federation;
- 12 "Portfolio Strategy" means management plans used by the Agency in
13 achieving its goals and objectives;
- 14 "User of Asset" means every Ministry, Department or Agency of the Federal
15 Government.
- 16 "Government" means the Federal Government comprising of its Ministries,
17 Departments and Agencies.
- 18 **38.** This Act may be cited as the Infrastructure Management and
19 Maintenance Bill, 2015.

Citation

EXPLANATORY MEMORANDUM

This Bill seeks to establish the Federal Infrastructure Management Agency and
for connected purposes.