

- 1 (b) publicize and explain the provisions of this Act;
- 2 (c) subject to thresholds as may be set by the Council, certify Federal
3 procurement prior to the award of contract;
- 4 (d) supervise and monitor the implementation of established
5 procurement policies;
- 6 (e) monitor the prices of tendered items and keep a national database
7 of standard prices that shall be used procuring entities;
- 8 (f) publish the details of major contracts in the procurement journal;
- 9 (g) publish paper and electronic editions of the procurement journal
10 and maintain an archival system for the procurement journal;
- 11 (h) maintain a national database of the particulars and classification
12 and categorization of federal contractors, suppliers, consultants and service
13 providers;
- 14 (i) collate and maintain in an archival system, all federal procurement
15 plans and information;
- 16 (j) undertake procurement research and surveys;
- 17 (k) organize training and development programmes for procurement
18 professionals;
- 19 (l) periodically review the socioeconomic effect of the policies on
20 procurement and advise the Council accordingly;
- 21 (m) prepare and update standard bidding and contract documents;
- 22 (n) prevent fraudulent and unfair procurement and where necessary
23 apply administrative sanctions;
- 24 (o) review the procurement and award of contract procedures of every
25 entity to which this Act applies;
- 26 (p) perform procurement audits and reviews and after approval of the
27 Council, submit such report, respectively to the President, Senate President
28 and Chief Justice of Nigeria annually;
- 29 (q) introduce, develop, update and maintain related database and
30 technology;

1 (r) establish a single internet portal that shall, subject to Section 16
2 (21) to this Act serve as a primary and definitive source of all information on
3 government procurement containing and displaying all public sector
4 procurement information at all times;

5 (s) co-ordinate relevant training programs to build institutional
6 capacity;

7 (t) subject to the approval of the Council, establish and staff the
8 procurement unit or department in each procuring entity in the Executive,
9 Legislative and Judicial arms of Government of the Federal Republic of
10 Nigeria;

11 (u) maintain a register of all procuring entities in the public service
12 and members and secretaries of Tenders Boards;

13 (v) develop, promote and support the training and professional
14 development of the public personnel involved in procurement;

15 (w) assist and support the local business community to become
16 competitive and efficient supplier to the public sector;

17 (x) facilitate the resolution of public procurement and disposal
18 complaints; and

19 (y) convene consultation meetings at least once a year with
20 relevant local and international stakeholders in the public and private
21 sectors who have interest in the proper and effective functioning of the
22 public procurement system. The meetings shall be chaired by the chairman
23 of the Council or his representative."

24 5. Section 6 of the principal Act amended in section 1 subsection
25 (1) paragraph (b) by inserting the words "within the purview of this Act"
26 immediately after the word "procurements" in line 2.

Amendment of
Section 6

27 6. Section 7 of the principal Act amended:

Amendment of
Section 7

28 (a) in subsection (2) paragraph (c) by inserting the words " is
29 competent and experienced in public procurement" immediately after the
30 word "who" in line 1;

1 (b) by inserting a new subsection (5) as follows:

2 "(5) In the absence of the Director General, the Council may designate
3 a staff member of the Bureau as acting Director General."

Amendment of
Section 12

4 7. Section 12 of the principal Act amended:

5 (a) in subsection (1) by inserting a new paragraph (d) as follows:

6 "(d) local and international grants, loans and donations received by
7 the Bureau for its activities."

8 (b) in subsection (4) paragraph (d) by inserting the words "or
9 expenditure" after the word "matter".

Amendment of
Section 13

10 8. Section 13 of the principal Act is amended in subsection (4) by
11 inserting the words "subject to the approval of the Council," after the word
12 "Bureau" in line 1.

Amendment of
Section 15

13 9. Section 15 of the Principal Act is amended by substituting for the
14 existing section a new section that is:

15 "(1) Subject to the provisions of the infrastructure Concession
16 Regulatory Commission (ICRC) Act, the provisions of this Act shall apply to
17 all procurement of goods, works and services carried out by-

18 (a) the Federal Government of Nigeria and all procurement entities;

19 (b) all entities outside the foregoing description which derive at least
20 thirty-five per cent of the funds appropriated or proposed to be appropriated for
21 any type of procurement described in this Act from the Federation share of
22 Consolidated Revenue Fund".

23 (c) Without limiting subsections (a) and (b) above, the Act applies to:

24 (i) Federal Government Ministries, Departments and Agencies;

25 (ii) Federal Government Institutions;

26 (iii) Federal Government owned enterprises, corporations, councils,
27 authorities and commissions provided that they utilize public funds;

28 (iv) Tertiary and non-Tertiary Educational Institutions;

29 (v) Hospitals and other Health Institutions;

30 (vi) The Central Bank of Nigeria and other Federal Government

1 owned Financial Institutions;

2 (vii) The National Defence and National Security Agencies;

3 (d) Procurement with grants, loans taken or guaranteed by the
4 Federal Government and foreign aid funds except where the applicable loan
5 agreement, guarantee contract or foreign agreement specifically provides
6 the procedure for the use of the funds;

7 (e) Disposal of public properties including stores, plants and
8 equipment.

9 (2) The national defence and national security agencies shall
10 comply with the provisions of this Act subject to the following:

11 (a) The Ministers of Defence and Interior shall seek and obtain
12 President's approval categorizing the goods, works and services to be
13 procured into either open or special/restricted items;

14 (b) The national defence and national security agencies and the
15 Council shall agree on the special and restricted procurement methods,
16 including request for proposals and request for quotations, set out in this Act
17 that shall be applied for the procurement of the restricted items accordingly;
18 and

19 (c) The national defence and national security agencies shall
20 include the Armed Forces, the Nigeria Police Force and any other agency as
21 may be approved by the President."

22 10. Section 16 of the Principal Act is amended by substituting for
23 the existing section a new section that is:

24 "Fundamental principles for procurement

25 16.(1) Subject to any exemption allowed by this Act, all public
26 procurement shall be conducted:

27 (a) subject to the prior review thresholds as may from time to time
28 be set by the Council;

29 (b) based only on procurement plans supported by prior budgetary
30 appropriations and no procurement proceedings shall be formalized until

1 the procuring entity has ensured that funds are available to meet the obligations
2 and subject to the threshold in the regulations set by the Council, and has
3 obtained a "Certificate of 'No Objection' to Contract Award;

4 (c) by open competitive bidding or any other procurement method
5 approved by the Council;

6 (d) in a manner which is transparent, timely, equitable for ensuring
7 accountability and in conformity with this Act and regulations deriving there
8 from;

9 (e) with the aim of achieving value for money and fitness for purpose;

10 (f) in a manner which promotes competition, economy and
11 efficiency;

12 (g) in accordance with the procedures and time-line laid down in this
13 Act and as may be specified by the Bureau from time to time; and

14 (h) in a corporate manner carried out by the departments and units of
15 the procuring entity in respect of procurement initiation, processing, receipt
16 and utilization of goods, works and services.

17 (2) Where the Council has set prior review thresholds in the
18 procurement regulations, no funds shall be disbursed from the Treasury or
19 Federation Account or any bank account of any procuring entity for any
20 procurement, unless the cheque, payments or other form of request for
21 payments is accompanied by a certificate of "No Objection" and an approval by
22 a Tenders board to an award of contract duly issued by the Bureau.

23 (3) For all cases where the Council shall set a prior review threshold.
24 The Bureau shall prescribe by regulation, guidelines and the conditions
25 precedent to the issuance of certificate of "No Objection" under this Act.

26 (4) Subject to the prior review thresholds as may be set by the
27 Council, any procurement purported to be awarded without a "Certificate of
28 'No Objection' to Contract Award" and an approval of the contract award by a
29 Tenders board shall be null and void.

30 (5) A supplier, contractor or service provider may be a natural person,

1 a legal person or a combination of the two. Suppliers, contractors or service
2 providers acting jointly are jointly and severally liable for all obligations and
3 or responsibility arising from this Act and the non- performance or improper
4 performance of any contract awarded pursuant to this Act.

5 (6) All bidders in addition to requirements contained in any
6 solicitation documents shall:

7 (a) possess the necessary:

8 (i) professional and technical qualifications to carry out particular
9 procurements;

10 (ii) financial capability;

11 (iii) equipment and other relevant infrastructure; and

12 (iv) shall have adequate personnel to perform the obligations of the
13 procurement contracts;

14 (b) possess the legal capacity to enter into the procurement
15 contract;

16 (c) not be in receivership, the subject of any form of insolvency or
17 bankruptcy proceedings or the subject of any form of winding up petition or
18 proceedings;

19 (d) have fulfilled all its obligations to pay taxes, pensions and
20 social security contributions;

21 (e) not have any director who has been convicted in any country for
22 any criminal offence relating to fraud or financial impropriety or criminal
23 misrepresentation or falsification of facts relating to any matter; and

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

29 (7) The procuring entity may require a bidder to provide
30 documentary evidence or other information it considers necessary as proof

1 that the bidder is qualified in accordance with this Act and the solicitation
2 documents and for this purpose any such requirements shall apply equally to all
3 bidders.

4 (8) Whenever it is established by a procuring entity or the Bureau that
5 any or combinations of the situations set out exist, a bidder may have its bid or
6 tender excluded from any particular procurement proceeding if:

7 (a) there is verifiable evidence that any supplier, contractor or
8 consultant has given or promised a gift of money or any tangible item, or has
9 promised, offered or given employment or any other benefit, item or a service
10 that can be quantified in monetary terms to a current or former employee of a
11 procuring entity or the Bureau, in an attempt to influence any action, or
12 decision making of any procurement activity;

13 (b) a supplier, contractor or consultant during the last three years prior
14 to the commencement of the procurement proceedings in issue, failed to
15 perform or to provide due care in performance of any public procurement;

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

22 (d) the bidder is in arrears regarding payment of due taxes, charges,
23 pensions, or social insurance contributions, unless such bidders have obtained
24 a lawful permits with respect to allowance, difference of such outstanding
25 payments or payment thereof in installments;

26 (e) the bidder has been validly sentence for a crime committed in
27 connection with a procurement proceeding, or any other crime committed to
28 gain financial profit;

29 (f) the bidder has in its management or is in any portion owned by any
30 person that has been validly sentence for a crime committed in connection with

1 a procurement proceeding, or other crime committed to gain financial profit;
2 and

3 (g) the bidder fails to submit a statement regarding its dominating
4 or subsidiary relationships with respect to other parties to the proceedings
5 and persons acting on behalf of the procuring entity participating in same
6 proceeding or whom remains in subordinate relationship with other
7 participants to the proceedings.

8 (9) In such cases the procuring entity shall inform the Bureau and
9 person referred to in subsection (8) (a)-(g) of this Section, in writing that the
10 bid or tender in question has been excluded and the grounds for the
11 exclusion and to keep a record of same in the file pertaining to the public
12 procurement proceeding in question.

13 (10) All communications and documents issued by procuring
14 entities and the Bureau shall be in English language.

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

18 (12) Every procuring entity shall maintain both file and electronic
19 records of all procurement proceedings made within each financial year and
20 the procurement records shall be maintained for a period of ten years from
21 the date of the award.

22 (13) Copies of all procurement records shall be transmitted to the
23 Bureau not later than 3 months after the end of the financial year and shall
24 show:

25 (a) information identifying the procuring entity and the
26 contractors;

27 (b) the date of the contract award;

28 (c) the value of the contract; and

29 (d) the detailed records of the procurement proceedings.

30 (14) All unclassified procurement records shall be open to

1 inspection by the public at the cost of copying and certifying the documents
2 plus an administrative charge as may be prescribed from time to time by the
3 Bureau as directed by the Council.

4 (15) The criteria stipulated as the basis upon which suppliers or
5 contractors would be evaluated shall not be changed in the course of any
6 procurement proceeding.

7 (16) The burden of proving fulfillment of the requirements for
8 participation in any procurement proceeding shall lie on the supplier or
9 contractor.

10 (17) A contract shall be awarded to the lowest evaluated responsive
11 bid from the bidders substantially responsive to the bid solicitation.

12 (18) Notwithstanding subsection (16) of this Section, the Council
13 may refuse to issue a 'Certificate of "No Objection" to Contract Award' on the
14 grounds that the price is excessive.

15 (19) Pursuant to subsection (17) of this Section, the Bureau may direct
16 either that the procurement proceedings be entirely cancelled or that the
17 procuring entity conduct are-tender.

18 (20) The accounting officer of a procuring entity and any officer to
19 whom responsibility is delegated are responsible and accountable for any
20 actions taken or omitted to be taken either in compliance with or in
21 contravention of this Act.

22 (21) The accounting officer of a procuring entity has the
23 responsibility to ensure that the provisions of this Act and the regulations laid
24 down by the Council are complied with, and concurrent approval by any
25 Tenders Board shall not absolve the accounting officer from accountability for
26 anything done in contravention of this Act or the regulations laid down
27 hereunder.

28 (22) Procurement and disposal decisions of a procuring entity shall be
29 taken in strict adherence to the provisions of this Act and any regulations as
30 may from time to time be laid down by the Council. Specifically, procurement

1 and disposal decisions by an entity shall be taken in a corporate manner and
2 any internal departments/units or committees or boards concerned, shall
3 accordingly contribute to the decision making process as provided in the
4 Act.

5 (23) Persons who have been engaged in preparing for a
6 procurement or part of the proceedings thereof may neither bid for the
7 procurement in question or any part thereof either as main contractor or sub-
8 contractor nor may they cooperate in any manner with bidders in the course
9 of preparing their tenders.

10 (24) A procuring entity shall not request or stipulate that a bidder
11 should engage a particular subcontractor as a requirement for participating
12 in any procurement proceedings.

13 (25) All procurement contracts shall contain provisions for arbitral
14 proceedings as the primary forms of dispute resolution.

15 (26) The values in procurement documents shall be stated in
16 Nigerian currency and where stated in a foreign currency shall be converted
17 to Nigerian currency using the exchange rate of the Central Bank of Nigeria
18 valid on the day of opening a tender or bid.

19 (27) All procurement contracts shall contain warranties for
20 durability of goods, exercise of requisite skills in service provision and use
21 of genuine materials and inputs in execution."

22 **11.** Section 17 of the Principal Act is amended by substituting for
23 the existing section a new section that is:

24 "17. (1) Subject to the monetary and prior review thresholds for
25 procurements in this Act as may from time to time be determined by the
26 Council, the following shall be the approving authority for the conduct of
27 public procurement:

28 (a) in the case of:

29 (i) a government agency, parastatal, or corporation, a Parastatals

30 Tenders Board;

1 (d) integrating his entity's procurement expenditure into its yearly
2 budget;

3 (e) ensuring that no reduction of values or splitting of procurements is
4 carried out such as to evade the use of the appropriate procurement method; and

5 (f) liaising with the Bureau to ensure the implementation of its
6 regulations.

7 (3) The accounting officer of each procuring entity is empowered to
8 purchase or approve contracts without open competitive tendering provided
9 the value of such procurement (low-value procurement) does not exceed
10 certain threshold set by the Council. For such low-value procurement, the
11 Council shall prescribe the procedure and other conditions applicable for
12 different procuring entities and for different goods, works and services to be
13 procured.

14 (4) Each employee of a procuring entity and each member of a board
15 or committee of a public entity shall ensure that this Act, within the areas of
16 assigned responsibility of the employee or member, is complied with.

17 (5) All bidders, contractors and suppliers for the procurement of any
18 goods, works and services for any public entity shall comply with all relevant
19 provisions of this Act.

20 (6) Any stakeholder, be it the accounting officer, an officer of the
21 procuring entity, a member of a committee or board of a public entity and any
22 bidder or contractor or supplier of public goods, works and services, who fails
23 to independently perform within the respective assigned responsibility as
24 prescribed in this Act and or who contravenes the provisions of this Act, shall
25 be guilty of an offence."

Amendment of
Section 21

26 **13.** Section 21 of the Principal Act is amended by substituting for the
27 existing section a new section that is:

28 "21. (1) For each financial year each procuring entity shall establish a
29 Procurement Planning Committee.

30 (2) The Procurement Planning Committee shall consist of:

1 (a) the accounting officer of the procuring entity or his
2 representative who shall chair the Committee;

3 (b) a representative of:

4 (i) the procurement unit of the procuring entity who shall be the
5 Secretary;

6 (ii) the unit directly in requirement of the procurement (the user
7 department/unit);

8 (iii) the financial unit of the procuring entity;

9 (iv) the planning, research and statistics unit of the procuring
10 entity;

11 (v) technical personnel of the procuring entity with expertise in the
12 subject matter for each particular procurement; and

13 (vi) the legal unit of the procuring entity.

14 (3) The Procurement Planning Committee shall carry out the
15 functions of the procuring entity as spelt out in Section 18 of this Act and
16 shall issue the Certificate of No Objection for contracts within the prior
17 review thresholds set by the Council.

18 (4) The procurement unit or department of the procuring entity
19 shall undertake independent mandatory regular monitoring of all projects
20 and render returns to the relevant Tenders Board and directly to the Bureau
21 on monthly basis.

22 (5) The user department/unit shall be responsible for initiating
23 procurement or disposal, proposing technical specifications for the goods,
24 works and services to be procured and work directly with consultants,
25 contractors/suppliers to ensure that the items are delivered as signed in the
26 contract agreement."

27 14. Section 22 of the Principal Act is amended by substituting for
28 the existing section a new section that is:

29 "22. (1) There is hereby established by this Act the Parastatal
30 Tenders Board in each procuring entity, the Ministerial Tenders Board in

1 each Ministry and Extra-Ministerial Department, the Federal Tenders Board
2 for the Executive arm of Government, (in this Act each referred to as "the
3 Tenders Board").

4 (2) Subject to the approval of the Council, the Bureau shall:

5 (a) from time to time prescribe guidelines for the membership of the
6 Tenders Boards for:

7 (i) Ministries, Departments and Agencies;

8 (ii) Government owned enterprises, corporations, councils,
9 authorities and commissions;

10 (iii) Tertiary and non-Tertiary Educational Institutions;

11 (iv) Hospitals and other Health Institutions;

12 (v) The Central Bank of Nigeria and other Financial Institutions;

13 (vi) The National Defence and National Security Agencies;

14 (b) Set the thresholds for the various accounting officers of all
15 procuring entities below which they are empowered to make purchase or
16 approve contracts (low-value procurement) without open competitive
17 tendering;

18 (c) Set the thresholds below which the Procurement Planning
19 Committee and above which the Council shall issue the Certificates of No
20 Objection to contracts awards;

21 (d) Set the Parastatals Tenders Boards thresholds as the approving
22 authority limit for the Parastatal Tenders Boards;

23 (e) Set the Ministerial Tenders Board thresholds as the approving
24 authority limit for the Ministerial Tenders Boards;

25 (f) Set special thresholds as the approving authority limits for some
26 selected procuring entities and Tenders Boards identified in (a) above;

27 (g) Set the thresholds as the approving authority limits for the Federal,
28 National Assembly and Judiciary Tenders Boards respectively;

29 (h) Set thresholds for all procuring entities, above which no bank shall
30 make any disbursement from the account of any procuring entity unless the

1 request for such payment is accompanied with the issued Certificate of No
2 Objection to contract award; and

3 (i) Set thresholds for and procurement methods and procedures to
4 be used by all procuring entities.

5 (3) Each Tenders Board shall be responsible for the approval of the
6 award of procurements goods, works and services within the thresholds set
7 in the regulations.

8 (4) (a) The Procurement Planning Committee of the procuring
9 entity shall appoint Tenders Opening Committee of at least three members
10 and at least one of the members shall not be directly involved in the
11 processing or evaluation of the tenders. The Legal Officer of the procuring
12 entity shall be the secretary of the Tenders Opening Committee. The Tenders
13 Opening Committee shall submit tenders opening report to the Technical
14 Evaluation Sub-committee;

15 (b) In all cases where there is a need for pre-qualification and
16 tenders evaluation, the Chairman of each Tenders Board shall constitute a
17 technical evaluation sub-committee of the Tenders Board charged with the
18 responsibility for the evaluation of bids which shall be made up of some
19 members of the Board, professional staff of the procuring entity, some
20 selected other professionals and the Secretary of the Tenders Board who
21 shall also be the Chair of the Technical Evaluation Sub-committee.

22 (c) For the Federal Tenders Board, the Minister in charge of the
23 procuring entity shall chair the Technical Evaluation Sub-committee as
24 representative of the Secretary of the Federal Tenders Board.

25 (d) For the Judiciary Tenders Board the Chief Judge of the State
26 Federal High Court shall chair the Technical Evaluation Sub-committee as
27 representative of the Secretary of the Judiciary Tenders Board.

28 (e) All members of the Technical Evaluation Sub-committee shall
29 sign the Code of Ethics designed by the Council declaring that they do not
30 have a conflict of interest in any of the procurement under consideration.

1 (f) After completing the evaluation exercise, the Technical Evaluation
2 Sub-committee shall obtain the "Certificate of No Objection" to award
3 contract;

4 (g) Each Tenders Board shall review the evaluation and
5 recommendation made by the Technical Evaluation Sub-committee of its
6 Tenders Board and may either:

7 (i) Approve the recommendation to award the contract or part
8 thereof; or

9 (ii) Refuse to accept the recommendation or part thereof and refer the
10 evaluation back to the Technical Evaluation Sub-committee with an instruction
11 to re-evaluate the tenders or a recommendation for re-tendering or other action.

12 (5) The decision of the Parastatal Tenders Board shall be
13 communicated to be confirmed by the Minister for implementation with the
14 Chairman of the Governing Board of the procuring entity as the confirmation
15 authority, while the decision of the Ministerial Tenders Board shall be
16 confirmed by the Minister as the confirmation authority.

17 (6) In the absence of the Chairman of the Governing Board or the
18 Minister, the Procurement Planning Committee of the procuring entity shall
19 confirm the approvals of the Parastatal Tenders Board and the Ministerial
20 Tenders Board respectively.

21 (7) The decision of the House of Representatives Tenders Board shall
22 be confirmed by the Speaker, while the decision of the Senate Tenders Board
23 shall be confirmed by the Senate President and the decision of the Federal High
24 Courts Tenders Boards/Court of Appeal Tenders Board shall be confirmed by
25 the Chief Judge/President of the Court of Appeal respectively.

Amendment of
Part VI

26 15. The Principal Act is amended in the title by inserting the word
27 "WORKS" before the word "GOODS" in the bracket that is:
28 "PART VI - PROCUREMENT METHODS (WORKS, GOODS AND SERVICES)"

Amendment of
Section 24

29 16. Section 24 of the Principal Act is amended in subsection (2) by
30 inserting the words "and services"

1 after the word "works" in the last line.

2 17. Section 25 of the Principal Act is amended in subsection (2) Amendment of
3 paragraph (ii) by substituting for the existing paragraph a new paragraph Section 25
4 that is:

5 "(ii) in the case of goods and works valued under National
6 Competitive Bidding, the invitation for bids shall be advertised on the notice
7 board of the procuring entity, any official web sites of the procuring entity, at
8 least two national newspapers, and in the procurement journal not less than
9 seven weeks before the deadline for submission of the bids for the goods and
10 six weeks of works."

11 18. Section 28 of the Principal Act is amended by substituting for Amendment of
12 the existing section a new section that is: Section 28

13 "28. A procuring entity or the Technical Evaluation Sub-
14 Committee may:

15 (a) reject all bids at any time prior or after the acceptance of a bid,
16 without incurring thereby any liability to the bidders ; and

17 (b) cancel the procurement proceedings in the public interest,
18 without incurring any liability to the bidders.

19 19. Sections 34 (1) and (2) of the Principal Act is amended by Amendment of
20 substituting the existing subsections (1) and (2) with new subsections (1) Section 34
21 and (2) as follows:

22 "Domestic preferences.

23 (1) A procuring entity shall grant a margin of preference in the
24 evaluation of tenders, when comparing tenders from domestic bidders with
25 those from foreign bidders or when comparing tenders from domestic
26 suppliers offering goods manufactured locally with those offering goods
27 manufactured abroad.

28 (2) Where a procuring entity has allowed domestic preferences, the
29 bidding documents shall clearly indicate any preference to be granted to
30 domestic suppliers and contractors and the information required to establish

Amendment of
Section 35f

- 1 the eligibility of a bid for such preference."
- 2 **20.** Section 35 of the principal Act is amended by substituting for
- 3 subsection (1) thereof a new subsection, that is-
- 4 "(1) In addition to any other regulations as may be prescribed by the
- 5 Bureau, a mobilization fee of not more than 25% may be paid to a supplier or
- 6 contractor supported by the following:

STANDARD PROCUREMENT PROCESSING TIME FOR QCBS

Activity	Processing Time in Days	Previously
Preparation of terms of Reference	1 - 7	7 - 14
Inviting for expression of interest up to submission of the same by consultants	14	14
Evaluation of Expression of interest and preparing shortlist and approval by the Tenders Board	7-15	21
Preparation and issuance of the request for proposal	7-15	21
Preparation and submission of proposals by consultants	10-21	30
Evaluation of technical proposals and approval of evaluation Report	10-21	30
Notification of technically qualified firms of date of financial proposal public opening	1-7	7 - 14
Opening of Financial proposals, approval of combined evaluation report and notification of negotiation to the firm with the highest combined score	5-10	21
Negotiations and approval of negotiated documents	1-7	7
Signature of contract	1-3	7

1 21. The principal Act is amended in section 60 by substituting for
2 the existing section a new section, that is-

3 "60. Accounting officer" means the person appointed by
4 government to administer the day to day affairs of the Government Organ
5 and holds a vote and account for all the monies expended from the vote and
6 is also charged with line supervision of the conduct of all procurement
7 processes;

8 "Approving authority" means an Accounting Officer of a Ministry or Extra-
9 ministerial Department or Chief Executive of a procuring entity or Tenders
10 Board;

11 "Assets" includes tangible and intangible things which have been or may be
12 sold or procured for consideration;

13 "Bid security" means a form of security assuring the bidder shall not
14 withdraw a bid within the period specified for acceptance and shall execute a
15 written contract within the time specified in the bid ;

16 "Debar"-means the placing of a firm company or natural person on a list of
17 person ineligible to participate in any procurement proceedings under this
18 Act;

19 "Certificate of No Objection" means the document evidencing and
20 authenticating that due process and the letters of this Act have been followed
21 in the conduct of a procurement proceeding and allowing for the procuring
22 entity to enter into contract or effect payments to contractors or suppliers
23 from the Treasury;

24 "Contract" means an agreement entered in writing between a procuring
25 entity and a contractor or a supplier of a consultant;

26 "Confirmation Authority" means the Chairman of a Governing Board of a
27 procuring entity or the Minister;

28 "Contractor or supplier" means any potential party to a procurement
29 contract with the procuring entity and includes any corporation, partnership,
30 individual, sole proprietor, joint stock company, joint venture or any other

- 1 legal entity through which business is conducted;
- 2 "Excessive price" means a monetary value proposed by a bidder for any
3 procurement which is in the estimation of the Bureau unreasonable and
4 injudicious after consideration of the actual value of the item in question plus
5 all reasonable imputations of cost and profit;
- 6 "Goods" means objects of every kind and description including raw materials,
7 products and equipment and objects in solid, liquid or gaseous form and
8 electricity as well as services incidental to the supply of the goods;
- 9 "Interim Performance Certificates" means evidence that a contractor or
10 supplier as performed its obligations under a procurement contract up to a level
11 stipulated in the contract agreement but not meaning completion;
- 12 "International Competitive Bidding" means the solicitation of bids from both
13 domestic and foreign contractors and suppliers;
- 14 "Lowest evaluated responsive bid" is the lowest price bid amongst the bids that
15 meets all the technical requirements and standards as contained in the tender
16 document;
- 17 "Margin of Preference" means the extra mark up on price allowed any
18 domestic contractor or supplier bidding under International Competitive
19 Bidding without being otherwise disadvantageous to the bid in terms of price;
- 20 "Minor Value" means a monetary value which is not in excess of the monetary
21 thresholds set for any approving authority by the Bureau;
- 22 "Monetary Threshold" means the value limit in Naira set by the Bureau outside
23 of which an approving authority may not approve a procurement contract;
- 24 "National Competitive Bidding" means the solicitation of bids from domestic
25 contractors and suppliers registered or incorporated to carry on business under
26 Nigeria Law;
- 27 "Negotiation" means discussions to determine the terms and conditions of a
28 contract or procurement;
- 29 "Open Competitive Bidding" means the offer of prices by individuals or firms
30 competing for a contract, privilege or right to supply specified goods, works,

- 1 construction or services;
- 2 "Procurement Proceedings" means the initiation of the process of effecting a
3 procurement up to award of a procurement contract;
- 4 "Procuring entity" means any public body or Government organ engaged in
5 procurement and includes a Ministry, Extra-Ministerial office, government
6 agency, parastatal, corporation, Commission, House of Representatives,
7 Senate, High Court and Court of Appeal;
- 8 "Public Procurement" means the acquisition by any means of goods, works
9 or services by the government;
- 10 "Relevant authority" includes Economic and Financial Crimes Commission
11 and Independent Corrupt Practices Commission;
- 12 "Services" means the rendering by a contractor or supplier or Consultant of
13 his time and effort and includes any object of procurement other than goods,
14 works or construction;
- 15 "Solicitation Documents" means the bid solicitation documents or any other
16 documents for solicitation of offers proposals or quotations;
- 17 "Special Purpose Goods" means any objects of armaments, ammunition,
18 mechanical, electrical equipment or other thing as may be determined by the
19 President needed by the Armed Forces or Police Force as well as the services
20 incidental to the supply of the objects;
- 21 "Substantially Responsive" means the response to bid solicitations which
22 virtually answers to all the needs of a procuring entity as stipulated in the bid
23 solicitation documents;
- 24 "Supplier" means a real or legal person that provides supply of goods,
25 contracting of works or consultants;
- 26 "Threshold" means limit and refers only to the approving and not the actual
27 process of award;
- 28 "Validity Period" means the period during which a bidder agrees not to
29 increase the cost of its bid or to remove any components of the bid;
- 30 "Works" means all activities associated with the construction,

1 reconstruction, demolition, repair or renovation of a building, structure or
2 activities, such as site preparation, excavation, erection, building, installation
3 of equipment or materials, decoration and finishing, as well as services
4 incidental to construction such as drilling, mapping, satellite photography,
5 seismic investigation and similar services provided pursuant to the
6 procurement of contract, where the value of those services does not exceed that
7 of the construction itself."

8 22. This Bill may be cited as the Public Procurement Act
9 (Amendment) Bill, 2017.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Public Procurement Act No. 14,2007 to make provisions for local contents and timely completion of procurement process in Nigeria.