

A BILL

FOR

AN ACT TO ESTABLISH SPECIFIC REQUIREMENTS TO ENSURE
PROCUREMENT INTEGRITY IN FEDERAL CONTRACT ACTIVITIES AND FOR
RELATED MATTERS

Sponsored by Hon. Nasiru Sani Zangon Daura

[] Commencement

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

- 1 **1.-(1)** A person described in subsection (2) of this section shall not,
2 other than otherwise as provided by law, knowingly disclose a contractor bid
3 or proposal information or source selection information before the award of
4 a public procurement contract to which the information relates.
5 (2) Subsection (1) applies to any person who:
6 (a) is a present or former official of any procuring entity in Nigeria,
7 or a person who is acting or has acted for or on behalf, or who is advising or
8 has advised any government agency, ministry or department in Nigeria with
9 respect to a public procurement; and
10 (b) by virtue of that office, employment, or relationship has or had
11 access to contractor bid or proposal information or source selection
12 information.
13 **2.** A person shall not, other than as provided by law, knowingly
14 obtain contractor bid or proposal information or source selection
15 information before the award of a public procurement contract to which the
16 information relates.
17 **3.** If a government official who is participating personally or
18 substantially in a public procurement or a contract in excess of the simplified
19 acquisition threshold, contacts or is contacted by a person who is a bidder or
20 offer or in that public procurement, regarding possible private sector

Prohibition on
disclosing
Procurement
information

Prohibition
obtaining
Procurement
information

Discussing
employment with
contractors

1 employment for that official, the official shall:

2 (1) promptly report the contact in writing to the official's supervisor
3 and to the designated ethics official of the agency in which the official is
4 employed; and

5 (2) either:

6 (a) reject the possibility of private sector employment; or

7 (b) disqualify himself or herself from further personal and substantial
8 participation in that public procurement until such time as the agency has
9 authorized the official to resume participation in such procurement, on the
10 grounds that:

11 (i) the person is no longer a bidder or offer or in that public
12 procurement; or

13 (ii) all discussion with the bidder or offer or regarding possible private
14 sector employment have terminated without an agreement or arrangement for
15 employment.

Accepting
compensation
from a contractor

16 4.-(1) A former official of a procuring entity shall not accept
17 compensation from a contractor as an employee, officer, director, or consultant
18 of the contractor within a period of one year after such former official:

19 (a) served, at the time of selection of the contractor or the award of a
20 contract to that contractor, as the procuring contracting officer, the source
21 selection authority, a member of the source selection evaluation board, or the
22 chief of a financial or technical evaluation team in a procurement in which that
23 contractor was selected for award of a contract in excess of N1 billion; or

24 (b) personally made for the procuring entity:

25 (i) a decision to award a contract, subcontract, modification of a
26 contract or subcontract in excess of N1 billion to that contractor;

27 (ii) a decision to establish overhead or other rates applicable to a
28 contract or contracts for that contractor that are valued in excess of N1 billion;

29 (iii) a decision to approve issuance of a contract payment or payment
30 in excess of N1 billion to that contractor; or

1 (iv) a decision to pay or settle a claim in excess of N1 billion with
2 that contractor.

3 (c) the one-year prohibition begins on the date:

4 (i) of contracts award for positions described in subsection (1)(a),
5 or the date of contractor selection if the official was not serving in the
6 position on the date of award; or

7 (ii) the official made one of the decisions described in subsection
8 (1)(b).

9 (2) Nothing in subsection (1) may be construed to prohibit a former
10 official of a procuring entity from accepting compensation from any
11 division or affiliate of a contractor that does not produce the same or similar
12 products or services as the entity of the contractor that is responsible for the
13 contract referred to in paragraphs (a), or (b) of subsection (1).

14 (3) A former official who knowingly accepts compensation in
15 violation of subsection (1) of this section shall be subject to penalties and
16 administrative actions as set forth in section 5 of this Act.

17 (4) A contractor who provides compensation to a former official
18 knowing that such compensation is accepted by the former in violation of
19 subsection (1) of this section shall be subject to penalties and administrative
20 actions as set forth in section 5 of this Act.

21 **5.-(1)** Any person who engages in conduct constituting a violation
22 of section 1 or section 2 of this Act for the purpose of either:

Ethics Laws
and Regulations

23 (a) exchanging the information covered by such section for
24 anything of value, or

25 (b) obtaining or giving anyone a competitive advantage in the
26 award of public procurement contract, shall be liable on conviction to a term
27 of imprisonment between 5 years and 10 years without an option of fine.

28 (2) The Attorney General of the Federation may bring a civil action
29 in the appropriate Federal High Court against any person who engages in
30 conduct constituting a violation of sections 1, 2, 3 or 4 of this Act.

- 1 (3) Upon proof of such conduct by a preponderance of the evidence:
- 2 (a) an individual who engages in such conduct is subject to a civil
- 3 penalty of not more than N5,000,000 for each violation plus twice the amount
- 4 of compensation which the individual received or offered for the prohibited
- 5 conduct;
- 6 (b) an organization that engages in such conduct is subject to a civil
- 7 penalty of not more than N50,000,000 for each violation plus twice the amount
- 8 of compensation which the organization received or offered for the prohibited
- 9 conduct.
- 10 (4) If a procuring entity receives information that a contractor or a
- 11 person has engaged in conduct constituting a violation of sections 1, 2, 3, or 4
- 12 of this Act, the procuring entity shall consider taking one or more of the
- 13 following actions, as appropriate:
- 14 (a) cancellation of the public procurement, if a contract has not yet
- 15 been awarded;
- 16 (b) rescission of a contract with respect to which:
- 17 (i) the contractor or someone acting for the contractor has been
- 18 convicted for the offence punishable under section 4(1);
- 19 (ii) the head of the procuring entity that awarded the contract has
- 20 determined, based upon a preponderance of the evidence, that the contractor or
- 21 someone acting for the contractor has engaged in conduct constituting such an
- 22 offence;
- 23 (iii) initiation of suspension or debarment proceedings for the
- 24 protection of the Government in accordance with procedures in the Public
- 25 Procurement Act.
- 26 (c) If a procuring entity rescinds a contract pursuant to paragraph (b)
- 27 of subsection (4) of this section, the Federal Government of Nigeria is entitled
- 28 to recover, in addition to any penalty prescribed by law, the amount expended
- 29 under the contract.

1	6. In this Act, unless the context otherwise requires:	Interpretation
2	"procurement entity" means any public body engaged in procurement and	
3	includes a Ministry, Extra-Ministerial office, government agency, parastatal	
4	and corporation;	
5	"contractor bid or proposal information" include confidential and nonpublic	
6	information submitted by contractor, supplier or service provider in	
7	connection with a bid or proposal like cost or pricing data, manufacturing	
8	processes, operations and techniques etc;	
9	"source selection information" include non public information prepared by	
10	an agency and used in evaluating a bid or proposal like bid prices, proposed	
11	costs or prices, technical evaluation plans, competitive range	
12	determinations etc.	
13	7. This Bill may be cited as the Procurement Integrity Bill, 2020.	Citation

EXPLANATORY MEMORANDUM

This Bill seeks to establish specific requirements to ensure procurement integrity in the contract activities of the federal government ministries, departments and agencies.

The Bill also seeks to set out penalties for the contravention of any of its provisions.