

DUE PROCESS GUIDELINES

**A Manual on Government
Procurement Policy in Sokoto State**

Issued by the
**BUREAU FOR PUBLIC PROCUREMENT
AND PRICE INTELLIGENCE
(DUE PROCESS OFFICE)**

**Executive Governor's Office
Sokoto, Nigeria**

Sponsored by UNDP

TABLE OF CONTENT

CHAPTER I

Title	1
Table of contents	2-3
Introduction	5
Interpretations	5-7
General Provisions	8
Functions of BPP & PI	8-9
International obligations	9

CHAPTER II

Methods of procurement and their conditions for use	10
Conditions for use of two-stage tendering, request	10-11
Condition for use of restricted tendering	11-12
Conditions for use of request for quotations	12
Conditions for use of single source procurement	12-13

CHAPTER III

Qualifications of suppliers and contractors	14-15
Prequalification proceedings	15-17
Procurement planning	17-18
Participation by suppliers or contractors	18
Forms of communications	19
Rules concerning documentary evidence	19

Rejection of all tenders, proposal, offers or quotations	19-20
Entry into force of the procurement contract	20
Public notice of procurement contract awards	20
Inducement from suppliers and contractors	20
Rule concerning description of construction, goods and services	21

CHAPTER IV

Approval Thresholds and Resident Due Process	21-24
--	-------

CHAPTER V

Procurement procedure	25
Advertisement	25
Prequalification	26-27
Invitation to Tender/Bid	27
Submission of Tender	27-28
Tender security	29-31

CHAPTER VI

Request for Due Process Review & Certification for project	32-33
--	-------

CHAPTER VII

The Review Process in BPP & PI	34-35
--------------------------------	-------

CHAPTER VIII

Results of compliance Review	36-37
------------------------------	-------

CHAPTER IX

Due Process Certification	38-40
---------------------------	-------

SOKOTO STATE OF NIGERIA

PUBLIC PROCUREMENT REGULATIONS FOR

GOODS, WORKS AND SERVICES

COMMENCEMENT

CHAPTER I

INTRODUCTION OF DUE PROCESS POLICY IN SOKOTO STATE

(b) In line with the present administration's resolve to enthrone probity, prudence and judicious utilization of limited resources available to Government, the Bureau of public procurement and price intelligence (BPP & PI) has been established to ensure that all procurements/contracts undertaking by the Government of Sokoto State comply with the principles of openness, transparency, accountability, competition, cost effectiveness and value for money.

INTERPRETATION:

In these Regulations

"Accounting Officer" means the person charged with supervision of the conduct of all procurement process;

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

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

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

"Consulting Services" means any one or a combination of the following:

- (i) advisory and review services;
- (ii) pre-investment or feasibility studies;
- (iii) design;
- (iv) construction supervision;
- (v) management and related services;
- (vi) other technical services or special studies

“Conflict of Interest” means but is not limited to the following situations:

Provided that a conflict of interest may not be inferred

- i) Where a supplier/manufacturer or contractor bid in combination with a firm offering services as a consultant and its bid is included relevant information about such relationship among with a statement to the effect that it shall limit its role to that of supplier or contractor, and that neither the firm nor its associates and affiliates shall participate in the project in any other capacity;
- ii) Where two or more firm (suppliers, contractors and consultants) with disclosure to the procuring Entity combine to bid for and/or execute a Turnkey or Design and Build contract.

“Contract” means an agreement entered in writing;

“Contractor or Supplier” means any potential party to a procurement contract with the procuring entity and includes any corporation, partnership, individual, sole proprietor, joint stock company, joint venture or any other legal entity through which business is conducted;

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

“Government” shall mean the Government of Sokoto State;

“Interim Performance Certificates” means evidence that a contract or supplier has performed its obligations under a procurement contract up to a level stipulated by the contractor but not meaning completion.

“National Competitive Bidding” means the solicitation or bids from domestic contractors and suppliers registered or incorporated to carry on business under Nigeria Law;

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

“Open Competitive Bidding” means the offer of prices by individuals or firms competing for a contract, privilege or right to supply specified goods, works, construction or services;

“Procurement” means acquisition;

“Procurement Proceeding” means the initiation of the process of effecting a procurement up to ward of a procurement contract;

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

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

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

“Supplier” means a real or legal person that provides supply of goods, contracting of works or consultants;

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

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

“Works” means all works associated with the construction, reconstruction, demolition, repair renovation of a building, structure or works such as site preparation, excavation, erection, building, installation of equipment or materials, decoration and finishing, as well as services incidental to construction such as drilling, mapping, satellite photography, seismic investigation and similar services provided pursuant to the procurement of contract, where the value of those services does not exceed that of the construction itself.

GENERAL PROVISIONS

Citation and application

(a) 1. These Regulations may be cited as the Public Procurement Regulations for Goods, Works and Services 2008. These Regulations shall apply to all procuring Entities and Participants in Public Contracts and to all public procurements of Goods, Works and Services except where a waiver is first obtained.

2. These Regulations for the procurement of Goods, Works and Services have been prepared by the Bureau of Public Procurement and price intelligence (BPP & PI) for use by the procuring Entities and Consultants participating in public financed contracts.

FUNCTIONS OF BPP & PI

? Regulate and set standards to enforce harmonized Bidding and Tender Documents for all procurements undertaken by the Sokoto State Government.

- ? Formulate general policies and guidelines on government procurements.
- ? Develop, update and maintain relevant system wide database and technology
- ? Uphold professional ethics and report erring procurement personnel, public officials, 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 for all ministries, Departments and Parastatals/Agencies.
- ? Perform procurement audit.
- ? Document and monitor State Government Projects from point of award until completion and publish same in the designated journals.
- ? Coordinate training programmes to promote capacity building of procurement personnel and develop systems and standards in the public sector.
- ? Sensitize, promote and indicate the public on Government Procurement issues.
- ? Advise the Executive Governor on the status of all Government procurements in relation to annual capital Budget.
- ? Provide relevant procurement and budget performance information to interested parties and the institutions.

- ? Undertake procurement research and survey with a view to determining information needs and project costing.
- ? Enhance the capacity of the Executive Governor to be fully informed about Budgetary provisions, project certification and project implementation.
- ? Monitor the expenditure on capital project to assess excess resource usage in relation to output using stop checks, random checks etc.
- ? Interact with Government and parastatals officials, State Assembly members; Consultants, relevant professional bodies to educate them on all aspects of the work of BPP & PI

INTERNATIONAL OBLIGATION OF SOKOTO STATE GOVERNMENT TO PROCUREMENT AND CORRUPT PRACTICES

“If these regulations conflict with Government's obligations under agreements with international organizations, the provisions under such international agreements shall prevail.

Where:

“(a) A procuring entity establishes the use of corrupt, fraudulent, collusive or coercive practices or procurement process, or

(b) The bureau established same during prior review or post review of procurement procedures or procurements audits,

The procuring Entity shall immediately refer the matter to, or the Bureau shall promptly take up the matter, and will upon substantiated evidence, direct:

(i) **Exclusion** of the Bidder from further proceedings in the procurement of the contract or reject a proposal for contract award, or

Measures to sanction such a firm or individual, including declaring it ineligible, either indefinitely or for a stated period of time, to be awarded public financed contracts.

CHAPTER II

Methods of procurement and their conditions for use

- (1) Except as otherwise provided by this chapter, a procuring entity engaging in procurement of construction or goods shall do so by means of tendering proceedings.
- (2) In the procurement of construction of goods, a procuring entity may use methods of procurement other than tendering proceedings only in the case of:
 - (i) Two stage tendering
 - (ii) Restricted tendering
 - (iii) Request for quotations
 - (iv) Direct procurement
 - (v) Emergency procurement
- (3) In the procurement of services, a procuring entity shall use the method of procurement, unless the procuring entity determines that:
 - (a) It is feasible to formulate detailed specifications and tendering proceedings would be more appropriate taking into account the nature of the services to be procured; or
 - (b) It would be more appropriate, subject to the approval of the Governor of Sokoto State or the Executive Council to use a method of procurement other than clause 1 above, provided that for the use of that methods are satisfied.
- (4) If the procuring entity uses a method of procurement pursuant to clause (2) or paragraph (a) or (b) of clause (3), it shall provide a statement of the grounds and circumstances on which it relied to justify the use of that method.

Conditions for use of two-stage tendering, request for proposal or competitive negotiation.

- (1) Subject to approval by the Governor of Sokoto State or the Executive Council a procuring entity may engage in procurement by means of two-stage tendering in accordance with the procurement act, or request for proposals in the following circumstances;
 - (a) It is not feasible for the procuring entity to formulate detailed specifications for the construction or goods or, in the case of services, to identify their characteristics and, in order to obtain most satisfactory solution to its procurement needs.

- (i) It seeks tenders, proposals or offers as to various possible means of meeting its needs, or
- (ii) Because of the technical character of the construction or goods, or because of the nature of the services, it is necessary for the procuring entity to negotiate with suppliers or contractors;
- (b) When the procuring entity seeks to enter into a contract for the purpose of research, experiment, study or development, except where the contract includes the production of goods in quantities sufficient to establish their commercial viability or to recover research and development costs.
- (c) When the procuring entity applies this clause pursuant, to procurement involving security and determines that the selected method is the most appropriate method of procurement or
- (d) when tendering proceedings have been engaged in but no tenders were submitted or all tenders were rejected by the procuring entity pursuant to and when, in the judgment of the procuring entity, engaging in new tendering proceedings would be unlikely to result in a procurement contract.
- (2) Subject to approval by the Governor of Sokoto State or the Executive Council the procuring entity may engage in procurement by means of competitive negotiation also when:
 - (a) There is an urgent need for the construction, goods or services, and engaging in tendering proceedings would therefore be impractical, provided that the circumstances giving rise to the urgency were neither foreseeable by the procuring entity nor the result of dilatory conduct on its part; or
 - (b) Owing to a catastrophic event, there is an urgent need for the construction, goods or services, making it impractical to use other methods of procurement because of the time involved in using those methods.

Condition for use of restricted tendering

Subject to approval by the Governor of Sokoto State or Executive Council the procuring entity may, where necessary for seasons of economy and efficiency, engage in procurement by means of restricted tendering in accordance with the provision of the procurement

- (c) The construction, goods or services, by reason of their highly complex or specialized nature, are available only from a limited number of suppliers or contractors; or

- (d) The time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the construction, goods or services to be procured.

Conditions for use of request for quotations

- ii. Subject to approval by the Governor of Sokoto State or the Executive Council, a procuring entity may engage in procurement by means of a request for quotations in accordance for the procurement of readily available goods or services that are not specifically produced or provided to the particulars specifications of the procuring entity and for which there is an established market, so long as the estimated value of the procurement contract is less than the amount set forth in the procurement regulations.
- iii. A procuring entity shall not divide its procurement into separate contracts for the purpose of invoking subparagraph (1) of this clause.

Conditions for Use of Single source procurement

- (1) Subject to approval by the Governor of Sokoto State or the Executive Council, a procuring entity may engage in single-source procurement.

- (a) The construction, goods or services are available only from a particular supplier or contractor, or a particular supplier or contractor has exclusive rights in respect of the construction, goods or services, and no reasonable alternative or substitute exists;
- (b) There is an urgent need for the construction, goods or services, and engaging in tendering proceedings or any other method of procurement would therefore be impractical, provided that circumstances giving rise to the urgency were neither foreseeable by the procuring entity nor the result of dilatory conduct on its part;
- (c) Owing to a catastrophic event, there is an urgent need for the construction, goods or services, making it impractical to use other methods of procurement because of the time involved in using those methods.

- (d) The procuring entity, having procured goods, equipment, technology or services from a supplier or contractor, determines that additional suppliers must be procured from that supplier or contractor for reasons of standardization or because of the need for compatibility with existing goods, equipment, technology or services taking into account the effectiveness of the original procurement in relation to the original procurement, the reasonableness of the price and the unsuitability of alternatives of the goods or services in question;

- (e) The procuring entity seeks to enter into a contract with the supplier or contractor for the purpose of research, experiment, study or development, except where the contract includes the production of goods in quantities to establish their commercial viability or to recover research and development cost; or

- (2) Subject to approval by the Governor of Sokoto State or the Executive Council, and following public notice and adequate opportunity to comment, a procurement when procurement from a particular supplier or contractor is necessary in order to promote a policy of transparency, prudence and accountability, provided that procurement from no other supplier or contractor is capable of promoting that policy.

CHAPTER III CONTRACT DUE PROCESS POLICY

Qualification of Suppliers & Contractors

- (a) This paragraph applies to the ascertainment by the procuring entity of the qualifications of suppliers or contractors at any stage of the procurement proceedings:
- (b) In order to participate in procurement proceedings, suppliers or contractors must qualify by meeting such of the following criteria as the procuring entity considers appropriate in the particular procurement proceedings:
 - (i) That they possess the necessary professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliable, experience, and reputation, and the personnel, to perform the procurement contract;
 - (ii) That they have legal capacity to enter into the procurement contract;
 - (iii) That they are not insolvent, in receivership, bankrupt or being wound up, their affairs are not being administered by a court or a judicial officer, their business activities have not been suspended, and they are not the subject of legal proceedings for any of the foregoing;
 - (iv) That they have fulfilled their obligations to pay taxes and social security contributions to the Government of Sokoto State.
 - (v) That they have not, and their Directors or officers have not been convicted of any criminal offence related to their professional conduct or the making of false statements or misrepresentations as to their qualifications to enter into a procurement contract within a period of 5 years preceding the commencement of the procurement proceedings, or have not been otherwise disqualified pursuant to administrative suspension or disbarment proceedings.
- (2) Subject to the right of suppliers or contractors to protect their intellectual property or trade secrets, the procuring entity may require suppliers or contractors participating in procurement proceedings to provide such appropriate documentary evidence or other information as it may deem useful to satisfy itself that the suppliers or contractors are qualified.

(3) Any requirement established shall be set forth in the prequalification documents, if any, and in the solicitation documents or other documents for solicitation or proposals, offers or quotations, and shall apply equally to all suppliers or contractors.

(4) The procuring entity shall evaluate the qualifications of supplier or contractors in accordance with the qualification criteria and procedures set forth in the prequalification documents, if any, and in the solicitation documents or other documents for solicitation of proposals, offers or quotations.

(5) The procuring entity shall establish no criterion, requirement or procedure with respect to the qualifications of suppliers or contractors that discriminates against or among suppliers or contractors or against categories hereof on the basis of nationality, or that is not objectively justifiable.

(6)(a) The procuring entity shall disqualify a supplier or contractor if it finds at any time that the information submitted concerning the qualifications of the supplier or contractor was false

(b) A procuring entity may disqualify a supplier or contractor if it finds at any time that the information submitted concerning the qualifications of the supplier or contractor was materially inaccurate or materially incomplete;

(c) Other than in a case to which paragraph (a) of above applies, a procuring entity may not disqualify a supplier or contractor on the ground that information submitted concerning the qualifications of the supplier or contractor was inaccurate or incomplete in a non-material respect. The supplier or contractor may be disqualified if it fails to remedy such deficiencies promptly upon request by the procuring entity.

II. Prequalification Proceedings

(1) The procuring entity may engage in prequalification proceedings with a view towards identification, prior to the submission of tenders, proposals or offers in procurement proceedings.

(2) If the procuring entity engages in prequalification documents on each supplier or contractor that request them in accordance with the invitation to prequalify and that pays the price, if any, charged for those documents. The price that the procuring entity may charge for the prequalification documents shall reflect only the cost of printing them and providing them to suppliers or contractors.

- (3) The prequalification documents shall include, at a minimum:
- (i) Instructions for preparing and submitting prequalification applications;
 - (ii) A summary of the principal required terms and conditions of the procurement contract to be entered into as a result of the procurement proceedings;
 - (iii) Any documentary evidence or other information that must be submitted by suppliers or contractors to demonstrate their qualifications;
 - (iv) The manner and place for the submission of applications to prequalify and the deadline for the submission, expressed as a specific date and time and allowing sufficient time for suppliers or contractors to prepare and submit their applications, taking into account the reasonable needs of the procuring entity;
 - (v) Any other requirements that may be established by the procuring entity in conformity with this law and the procurement regulations relating to the preparation and submission of applications to prequalify and to the prequalification proceedings; and
- (4) The procuring entity shall respond to any request by a supplier or contractor for clarification of the prequalification documents that is received by the procuring entity within a reasonable time prior to the deadline for the submission of applications to prequalify. The response by the procuring entity shall be given within a reasonable time so as to enable the supplier or contractor to make a timely submission of its application to prequalify. The response to any request that might reasonably be expected to be of interest to other suppliers or contractors shall, without identifying the source of the request, be communicated to all suppliers or contractors to which the procuring entity provide the prequalification documents.

- (5) The procuring entity shall make a decision with respect to the qualifications of each supplier or contractor submitting an application to prequalify. In reaching that decision, the procuring entity shall apply only the criteria set forth in the prequalification documents.
- (6) The procuring entity shall promptly notify each supplier or contractor submitting an application to prequalify whether or not it has been prequalified and shall make available to any member of the general public, upon request, the names of all suppliers or contractors that have been prequalified. Only suppliers or contractors that have been prequalified are entitled to participate further in the procurement proceedings.
- (7) The procuring entity shall upon request communicate to suppliers or contractors that have not been prequalified the grounds therefore, but the procuring entity is not required to specify the evidence or give the reasons for its finding that those grounds were present
- (8) The procuring entity may require a supplier or contractor that has been prequalified to demonstrate again its qualifications in accordance with the same criteria used to prequalify such supplier or construction. The procuring entity shall disqualify any supplier or contractor that fails to demonstrate against its qualifications it requested to do so. The procuring entity shall promptly notify each supplier or contractor requested to demonstrate again its contractor has done so to the satisfaction of the procuring entity.

III Procurement Planning

- (1) All procurement shall be undertaken within the approved budget of the procuring entity and be based on a meticulously prepared procurement plan. The procuring entity shall prepare and Annual Procurement Plan to be approved by the Accounting Officer.
- (2) The procurement plan should

- (a) be closely coordinated with the Budget departments of each procuring entity to ensure that the procurement expenditure is provided for in the budget.
- (b) indicate the appropriate procurement methods for each project to the extent identified and ensure that no contract splitting is carried out;
- (c) detail the procurement steps and associated expenditure outlays for not less than the first 18 months thereof for projects sufficiently developed and evaluated;
- (d) detail indicatively the procurement steps and associated expenditure outlays for the remaining period of the contract;
- (e) provide for grouping of contracts to obtain economies of scale and reduce procurement costs; and
- (f) be continuously updated as procurement progresses or new projects are developed in accordance with budgetary provisions.

IV. Participation by Suppliers or Contractors

- (1) Suppliers or contractors are permitted to participate in procurement proceeding without regard to nationality, except in case in which the procuring entity decides, on grounds specified in the procurement regulations or according to other provisions of law, to limit participation in procurement proceedings on the basis of nationality
- (2) A procuring entity that limits participation on the basis of nationality pursuant to paragraph (1) of this heading shall include in the record of the procurement proceedings statement of the grounds and circumstances on which it relies.
- (3) The procuring entity, when first soliciting the participation of supplier or contractors in the procurement proceedings shall declare regardless of nationality, a declaration which may not later be altered. However, if it decides to limit participation pursuant to paragraph vi of heading, it shall so declare to them.

V. Forms of Communication

- (1) Subject to other provisions of this guidelines and any requirement of form specified by the procuring entity when first soliciting the participation of suppliers and contractors in the procurement proceedings, documents, notifications, decisions and other communications referred to in this guidelines to be submitted by the procuring entity or administrative authority to supplier or contractor or by a supplier or contractor to the procuring entity shall be in a form that provides a record of the content of the communication.
- (2) The procuring entity shall not discriminate against or among suppliers or contractors on the basis of the form in which they transmit or receive documents, notifications, decisions or other communications.

VI. Rules concerning documentary evidence provided by suppliers or contractors

If the procuring entity requires the legalization of documentary evidence provided by suppliers or contractors to demonstrate their qualifications in procurement proceedings, the procuring entity shall not impose any requirements as to the legalization of the documentary evidence other than those provided for in the laws of Sokoto State relating to the legalization of documents of the type in question.

Rejection of all tenders, proposals, offers or quotations.

- (1) Subject to approval by the Governor of Sokoto State or the Executive Council and if so specified in the solicitation documents or other documents for solicitation of proposals, offers or quotations, the procuring entity may reject all tenders, proposals, offers or quotations at any time prior to the acceptance of a tender, proposals, offer or quotation. The procuring entity shall upon request communicate to any supplier or contractor that submit a tender, proposal, offer or quotation, the grounds for its rejection of all tenders, proposals, offers or quotations, but is not required to justify those grounds.
- (2) The procuring entity shall incur no liability, solely by virtue of its invoking paragraph (1) of this heading, towards suppliers or contractors that have submitted tenders, proposals, offers or quotations.

- (3) Notice of the rejection of all tenders, proposals, offers or quotations shall be given promptly to all suppliers or contractors that submitted tenders, proposals, offers or quotations.

Entry into force of the procurement contract

- (1) In tendering proceedings, acceptance of the tender and entry into force of the procurement contract shall be carried out in accordance with laid down contract proceedings.
- (2) In all the other methods of procurement, the manner of entry into force of the procurement contract shall be notified to the suppliers or contractors at the time that proposals, offers or quotations are requested.

Public notice of procurement contract awards

- (1) The procuring entity shall promptly publish notice of procurement contract awards.
- (2) The procurement regulations may provide for the manner of publication of the notice required by paragraph (1) above.
- (3) Paragraph (1) is not applicable to awards where the contract price is less than N1.0 (Five Million Naira).

Inducements from suppliers or contractors

Subject to approval by the Governor or the Executive Council, a procuring entity shall reject a tender, proposal, offer or quotation if the supplier or contractor that submitted it offers, gives or agrees to give, directly or indirectly, to any current or former officer or employee of the procuring entity or other governmental authority a gratuity in any form, an offer of employment or any other thing of service or value, as a inducement with respect to an act or decision of, or procedure followed by, the procuring entity in connection with the procurement proceedings. Such rejection of the tender, proposal, offer or quotation and the reasons therefore shall be recorded in the record of the procurement proceedings and promptly communicated to the supplier or contractor.

Rules concerning description of construction, goods and services

- (1) Any specifications, plans, drawings and setting forth the technical or quality characteristics of the construction, goods or services to be procured, and requirements concerning testing and test methods, packaging, marking or labeling or conformity certification, and symbols and terminology, or description of services, that create obstacles to participation, including obstacles based on nationality, by suppliers or contractors in the procurements or other documents for solicitation of proposals, offers or quotations.
- (2) To the extent possible, any specifications, plans, drawings, design and requirements or descriptions of construction, goods or services shall be based on the relevant objectives, technical and quality characteristics of the construction, goods or services to be procured. There shall be no requirement of or reference to a particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligence way of describing the characteristics of the construction, goods and services to be procured that words such as "or equivalent" are included.
- (3) (a) Standardized features, requirements, symbols and terminology relating to the technical and quality characteristics of the construction, goods or service to be procured shall be used, where available, in formulating any specifications, plans, drawings and designs to be included in the pre-qualification documents, solicitation documents or other documents for solicitation or proposals, offers of quotations; (b) Due regard shall be given for the use of standardized trade terms, where available, in formulating the terms and conditions of the procurement contract to be entered into as a result of the procurement proceedings and in formulating other relevant aspects of the pre-qualification documents, solicitation documents or other documents for solicitation of proposals, offers or quotations.

CHAPTER IV

Approval threshold and Resident Due Process

The Bureau for Public Procurement and Price Intelligence (BPP & PI) shall review and certify all State Government Contracts according to established and approved thresholds, before (AWARDS AND PAYMENT).

To this end, four approval thresholds have been approved for the award of the State Government contracts. These are:

- A. N1 N100,000 to be approved by CEO of the MDAs
- B. N100,000 N5,000,000 to be approved by Ministerial Tenders Board of the MDAs
- C. N5,000,000 50,000,000 to be approved by state tenders board
- D. N50,000,000 unlimited to be approved by State Executive Council

Contracts below N100,000

Permanent Secretary/Chief Executive of a Ministry of Extra-ministerial Departments shall approve and award this threshold of contracts provided that Due Process is strictly observed. In the case of Parastatals and other Agencies, the threshold shall be as specified in their enabling laws. Where none is specified, a threshold of N100,000:00 shall apply. Contracts between N1:00 and N100,000:00 shall be approved by the Permanent Secretary of the Supervising Ministry/Agency.

Contracts Above 100,000 but below N5 million

A "Resident Due Process Team (RDPT)" established by the Ministry, Parastatals or Agency shall handle the Due Process Compliance Review of all such contracts and has the power to approve the award of contract provided that compliance with Due Process is unanimously established by all the members. The contracts within this threshold shall therefore be certified in-house by Ministries, Departments and Agencies through their own RDPT. However, (BPP & PI) official representative in the team must

endorse to confirm that due process has been strictly observed. Thereafter the Director General and Chairman of (BPP & PI) shall certify the project, forwarded by the Resident Due Process Team.

Contracts of N5,000,000 but below N50 Million

These categories of contracts are to be processed by relevant Ministry, Department or Agency in line with the guidelines set forth. Upon the conclusion of the contract procedures, the Resident Due Process Team, shall then forward its recommendations and all supporting documents to the State Tenders Board for vetting. The vetted documents will then be forwarded to the Due Process Office for final review and certification, before award by the State Tenders Board.

Contracts of N50 Million and above

These categories of contracts are to be processed by the relevant Ministry, Departments or Agency in line with the guidelines set forth. Upon conclusion of the contracts procedures, the Residents Due Process Team shall then forward their recommendations and all supporting documents to the State Tenders Board for vetting. The vetted documents will then be forwarded to the Due Process office for final review and certification. It is only after the Due Process Certificate is obtained from (BPP & PI) that the State Tenders Board can forward the Memorandum on the project to the State Executive Council for final approval to the award of the contract.

COMPOSITION OF RESIDENT DUE PROCESS TEAM

- ? The Permanent Secretary/DG (Accounting Officer) Chairman
- ? Director of Finance & Accounts Member
- ? Director of Planning, Research and Statistics Member/Sec.
- ? Director of Admin/Finance and Supplies Member
- ? Director Procuring Entity Coopted Member
- ? A representative of (BPP & PI) (Due Process Unit) Member

The membership of the (BPP & PI) in the Resident Due Process Teams of Ministries, Agencies and Departments is an INSTITUTIONAL ONE. This means that there is no designed permanent (BPP&PI) nominee for any Ministries Departments or Agency's Resident Due Process Meetings. Any official of the (BPP&PI) can be sent to represent the office in such meetings.

Spending Units are therefore not expected to insist or request for a particular officer to participate in such meetings.

Invitation to Resident Due Process Meetings

All invitations from Ministries, Agencies and departments to the (BPP&PI) for instructional representation at Resident Due process meetings must reach the Bureau at least 7 working days before the date of the meetings.

The invitation should contain such relevant information as date of the meeting, venue, time, agenda and copy of each memorandum to be considered. This shall facilitate effective planning by the (BPP&PI) ahead of the meeting. All such invitations should be addressed to: The Director General and Chairman, BPP&PI Office of the Executive Governor, Sokoto.

The (BPP&PI) is responsible for the welfare of its staff designated to attend such meetings. Decisions taken at any Resident Due Process Meeting on public procurement be convened by any spending unit without proper invitation and participation of the (BPP&PI) will not be recognized or accepted by the Unit for certification.

Similarly, request for consultation, information, enlightenment or assistance from Ministries, Agencies and Department in the packaging of the projects should be directed to the Director General of BPP&PI,

CHAPTER V

Procurement Procedure

The following steps are to be followed in carrying out all procurement by ministries, Departments and Agencies:

- (1) Advertisement
- (2) Pre-qualification
- (3) Invitation to tender
- (4) Submission of tenders
- (5) Opening of Tender
- (6) The Bid Evaluation Process
- (7) Determination of Winning Bid

1. Advertisement

Equal access of information by all possible participants in government contracts is fundamental to a free and fair competition. This is the major step in ensuring that any procurement system derives the benefit of effectiveness, efficiency and value-for-money.

A procuring entity shall be responsible for advertising directly, an invitations for pre-qualification or invitations to tender for goods, works and services. A copy of the advert shall be forwarded to (BPP&PI).

There are two categories of Advertisement Guidelines:

(a) Advert Guidelines for all Contracts below N10 million

Advertisement for such projects must be placed in the Notice Board in a conspicuous layout at the Ministry, Department or Agency.

(b) Advert Guidelines for all contracts above N10 million

Advertisement calling for pre-qualification of contractors or invitation to bid, must be placed in at least one National Newspaper or Government Gazette.

The Standard Format for Adverts on Government Contracts

All State Government Adverts for Pre-qualification shall follow this standard with the following basic information:

- ? The name and address of procuring Entity
- ? Introduction: a brief description of the object of the procurement, including desired time for delivery/completion.

- ? Scope of work
- ? A summary of the required pre-qualification criteria
- ? The place and deadlines for submission of the application for pre-qualification, and
- ? The date of availability of the pre-qualification documents where standardized.

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

2. Pre-qualification Requirement

In simple terms, upon the collation of the submissions of all respondents to an advertisement for pre-qualification, the Ministry, Agency or Department shall analyze all the submissions made by the respondents to the Adverts.

The analysis shall be based on an objective set of technical and financial capacity criteria. The aim is to shortlist and select component respondents to the advert. It is also an opportunity to weed out those who do not qualify to be adjudged competent to participate in the commercial/financial bid.

The criteria would usually include scores totaling 100% for the following:

- ? Evidence of incorporation or Business name Registration 0%
- ? Registration with the relevant Ministries and Bureau 0%
- ? Company Audited Accounts for three years 0%
- ? Evidence of Tax Clearance Certificate for three years 0%
- ? Evidence of Financial Capability and Banking Support 15%
- ? Experience/Technical Qualification and experience of key personnel 25%
- ? Similar projects executed and evidence of knowledge of the industry 20%
- ? Equipment and Technology capacity 20%
- ? Annual Turnover 5%
- ? VAT registration and Evidence of past VAT remittance.

All parameters with the zero scores are considered RESPONSIVE.

The Absence of any one would automatically disqualify an applicant for pre-qualification.

Best practice in contracting, establishes that the pre-qualification benchmark score within which respondents can be considered to be competent is a score of 70% and above.

The next stage is draw up a list of all the respondents above 70% acceptable pre-qualification score to be known as the "List of Pre-qualified Bidders" or "Competent Bidders" and all to whom shall be issued invitation to tender or bid.

3. Invitation to Tender/Bid

The tender documents shall follow the format of the standard tender document appropriate to goods, works or services to be procured. 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: Technical and Commercial (financial) and shall be submitted not more than four weeks after the bid documents were issued.

4. Submission of Tenders

Language of Tender

Tenders may be formulated and submitted in any language in which the solicitation documents have been issued or in any other language that the procuring entity specifies in the solicitation documents.

Submission of Tender

- (1) The procuring entity shall fix three places for and a specific date and time as the deadline for, the submission of tenders.
- (2) The procuring entity issues a clarification or modification of the solicitation documents, or if a meeting of suppliers or contractors is held, it shall, prior to the deadline for the submission of tenders, extend the deadline if necessary to afford suppliers or contractors the minutes of the meeting, into account in their tenders.
- (3) The procuring entity may, in its absolute discretion, prior to the deadline for the submission of tenders, extend the deadline if it is not possible for one or more suppliers or contractors to submit their tenders by the deadline owing to any circumstance beyond their control.
- (4) Notice of any extension of the deadline shall be given promptly to each supplier or contractor to which the procuring entity provided the solicitation documents.

- (5) (a) Subject to paragraph (b), a tender shall be submitted in writing, signing and in a sealed envelop;
- (b) Without prejudice to the right of a supplier or contractor to submit a tender in the form referred to in paragraph (a), a tender may alternatively be submitted in any other form specified in the solicitation documents that provides a record of the content of the tender and at least a similar degree of authenticity, security and confidentiality;
- (c) The procuring entity shall, on request, provide to the supplier or contractor a receipt showing the date and time when its tender was received
- (6) A tender received by the procuring entity after deadline for the submission of tenders shall not be opened and shall be returned to the supplier or contractor that submitted it.

Period of effectiveness of tenders, modification and withdrawn of tenders

- (1) Tenders shall be in effect during the period of time specified in the solicitation documents
- (2) (a) Prior to the expiry of the period of effectiveness of tender, the procuring entity may request suppliers or extend the period for an additional specified period of time. A supplier or contractor may refuse the request without forfeiting its tender security, and the effectiveness of its tender will terminate upon the expiry of the un-extended period of effectiveness;
- (b) Suppliers or contractors that agree to an extension of the period of effectiveness of their tenders shall extend or procure an extension of the period of effectiveness of tender securities provided by them or provide new tender securities to cover the extended period of effectiveness of their tenders. A supplier or contractor whose tender security is not extended, or that has not provided a new tender security, is considered to have refused the request to extend the period of effectiveness of its tender.

- (3) Unless otherwise stipulated in the solicitation documents, a supplier or contractor may modify for withdraw its tender prior to the deadline for the submission of tenders without forfeiting its tender security. The modification or notice of withdrawal is effective if it is received by the procuring entity prior to the deadline for the submission of tenders.

Tender Security

- (1) When the procuring entity requires suppliers or contractors submitting tenders to provide a tender security:
 - (a) The requirement shall apply to all such suppliers or contractors
 - (b) The solicitation documents may stipulate that the issuer or the tender security and the confirmer, if any, of the tender security, as well as the form and terms of the tender security, must be acceptable to the procuring entity;
 - (c) Notwithstanding the provisions of paragraph (b) of this section, a tender security shall not be rejected by the procuring entity on the grounds that the tender security was not issued by an issuer otherwise confirm to requirements set forth in the solicitation documents, unless the acceptance by the procuring entity of such a tender security would be in violation of a law of Sokoto State or of the Federal Republic of Nigeria.
 - (d) Prior to submitting a tender, a supplier or contractor may request the procuring entity to confirm the acceptability of a proposed issuer of a tender security, or of a proposal confirmer, if required; the procuring entity shall respond promptly to such a request;
 - (e) Confirmation of the acceptability of a proposal issue of any proposed confirmer does not preclude the procuring entity of rejecting the tender security on the ground that the issuer or the confirmer, as the case may be, has become insolvent or otherwise lack creditworthiness.
 - (f) The procuring entity shall specify in the solicitation documents any requirements with respect to the issuer and the nature, form, amount and other principal terms and conditions of the required tender security; any requirement that refers directly or indirectly to conduct by the supplier or contractor submission the tender shall not relate to conduct other than;

- (i) Withdrawal or modification of tender after the deadline for submission of tenders, or before the deadline if so stipulated in the solicitation documents;
 - (ii) Failure to sign the procurement contract if required by the procuring entity to do so;
 - (iii) Failure to provide a required security for the performance of the contract after the tender has been accepted or to comply with any other condition precedent to signing the procurement contract specified in the solicitation documents.
- (2) The procuring entity shall make no claim to the amount of the tender security, and shall promptly return, or procure the return of, the tender security document, after whichever of the following that occurs earliest:
- (a) The expiry of the tender security;
 - (b) The entry into force of a procurement contract and the provision of a security for the performance of the contract, if such a security is required by the solicitation documents;
 - (c) The termination of the tendering proceedings without the entry into force of a procurement contract;
 - (d) The withdrawal of the tender prior to the deadline for the submission of tenders, unless the solicitation documents stipulated that no such withdrawal is permitted.

5. Opening of Tender

Opening of bid/tender must take place immediately after the closing of bidding/tendering period. Bidders or their representatives and civil societies are expected to witness the tender opening.

The Technical Bid is to be opened and conclusively evaluated before the financial Bids can be opened.

6. Evaluation of Tender

The tender submission by the pre-qualified bidders having been made in two parts, the technical, commercial/financial shall be evaluated by the Evaluation Team of the 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 award for submission to the approving authority.

The TEC shall consist of five members of which at least three, shall be experienced in procurement.

The Technical Bid

The Submission of Financial Bid for all firms that scaled the technical evaluation is the financial stage in a public procurement competition.

This is the stage where the pre-qualified bidders found competent in all areas now make submissions on the costs at which they are ready to undertake the job.

The Financial Bid

The submission of Financial Bid by all firms that scaled the technical bid evaluation is the final stage in the public procurement competition.

This is the stage where the pre-qualified bidders found companies in all areas now make submissions on the cost at which they are ready to undertake the job

7. Determination of a Winner

According to global best practices, it is the lowest evaluated tender cost usually referred to as the Best Responsive Bidder that should be adjudged the Right Winner.

Simply put, the winner in a competitive bid process is that competent bidder (that is, a pre-qualified and technical evaluated bidder) that comes out of the financial competition offering the lowest price for the execution of this contract.

EMERGENCY PROCUREMENT

- i. Where the implementation of a project is to be accelerated selective or limited Tender procurement may be used.
- ii. Where the procedure is (i) above is adopted, the number of competent contractors/suppliers short-listed and invited to tender shall not be less than five.

The short listing or selection of contractors shall be done by:

* Permanent secretary/Chief Executive of a Ministry or Extra-Ministerial Departments, Parastatals and other Agencies, who shall recommend to BPP&PI based on their contract threshold for NO OBJECTION.

The affected contract categories are:

- ? Contract above N1m but below N5m
- ? Contract of N5m but below N50m
- ? Contract of N50m and above.

CHAPTER VI

Request for Due Process Review and Certification for Projects of N10 million and above

Having followed the guidelines elaborated above, the officer in charge of the procurement in the Ministry, Agency or Department would document the details of their procurement process, the conclusion and recommendations, specifically the winner and cost of proposed award in form of a detailed but concise report.

The Ministry is now required to subject its handling of the procurement process to the Compliance Review Scrutiny by the BBPP & PI. This is in order to secure the valuating certification upon which the States Executive Council may give a final approval for award of the contract.

Documents required for BPP & PI Review and Certification

The following documents shall be forwarded by a procuring entity to the BPP & PI along with the Letter of Request (LOR) for Due Process Compliance Review and Certification for Award of Contract or Payment of on-going contract.

- ? The project policy file
- ? The background documents that include technical and financial consideration of the project by the spending Units and which includes not limited to: "Original Contract Bills of Quantities (if any)".
- ? Contract drawings and Engineering Designs (if any)
- ? Other Related Technical Documents Financial Summary and Statements
- ? Project Reports
- ? Internal Cost estimate
- ? Variation in Scope Requests and Variation Orders Arising
- ? Evidence of fund for the project as stated in the Budget Approval
- ? MDA Procurement Plan
- ? Evidence of Advertisement as appropriate
- ? Pre-qualification Exercise, the objective criteria for short-listing the pre-qualified bidders
- ? Pre-qualification Evaluation Report
- ? Evidence of Invitation to tender sent to all pre-qualified bidders
- ? Tender Returns
- ? The Tender Evaluation Report and analysis of the financial bids submitted by all the pre-qualified bidders

- ? Tender Evaluation Reports showing Due Process Compliance
- ? Interim Valuation Certificates (for payment)
- ? Consultant Work Progress Report (for payment)

The Review and Issuance of Certificates

The compliance review shall be undertaken by the BBPP&PI to establish the following

The process is open, transparent and competitive, the right, competence and successful bidder (contractor) is recommended, the price is right and achieves value for

What is a Right Contract Award Process?

It is a process which ensures that rules governing pre-procurement planning, advertisement, pre-qualification, technical and financial evaluations are open, free and fair, transparent, and competitive.

Who is a Right Winner?

According to global best practices, it is the Least Evaluated Tender Cost. It is also usually referred to as the Best Responsive Bidder.

A **right winner** is a pre-qualified and technical evaluated bidder that comes out of the financial competition of procurement, offering the lowest evaluated cost

What is a "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 internal price benchmarks.

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 easily be determined by applying basic rules of engineering and quantities costing based on prevalent market rates to the scope of work. Such cost must be validated by the BBPP&PI.

CHAPTER VII THE REVIEW PROCESS IN BPP&PI

Draft Due Process Review Report (DDPRR)

The compliance review process for every State Government contract above N50 million threshold results into Draft Process review Report (DPRR).

It is the review report does not support the issuance of 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. This information will be translated utility.

The report shall however not be unilaterally concluded by the BPP & PI into a final Due Process Review Report without offering the procuring Entity the opportunity for a "Right of Reply" meeting.

Right of Reply Meeting

Where a Due Process Certificate is denied in accordance with the findings and conclusions drawn from compliance Review of Contract a right of Reply meeting shall be convened.

This is create a forum for the BPP&PI and the Ministry/Agency/Department involved to discuss, clarify, jointly resolve and conclude all contentions issues.

The meeting usually involves all officers from the Ministry/Agency/Department and all members of the reviewing BPP & PI 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 accountability, feed-back platform for the BPP & PI.

It ensures accountability and open check on the work of the unit by the procuring entities.

Due Process Review Report

During "right of Reply Meetings", if additional information is provided supported with superior arguments and documentations that can make the BPP & PI its position on earlier conclusions then the BPP&I would immediately oblige.

The BPP&PI will then issues a Due Process Certificate for award for the Consideration of the State Executive Council in favour of procuring Entity.

THE DUE PROCESS REVIEW REPORT

The content of every project's Due Process Review Report is as follows:

1. Introduction
2. Background of the project
3. Project location
4. Project description and scope of works
5. Review of the project planning process
6. Project preparation and design, economic and financial
7. Implementation planning, and project packaging
8. Review of project procurement process
9. Procurement background
10. Tender advertisement
11. Tender returns
12. Tenders evaluation and recommendation, Technical/Commercial proposals, comparison of unit rates
13. Findings on the procurement process
14. The cash flow projection and budgetary provision
15. Due Process compliance test table
16. Conclusion/Suggestions

CHAPTER VIII

RESULTS OF COMPLIANCE REVIEW

There are three possible outcomes at the end of a Compliance Review exercise by the BPP&PI.

RESULT A (POSITIVE)

Due Process Certificate Granted

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 findings and conclusions would recommend issuance of a Due Process Certificate for Award of Contract. The Due Process Certificate would be forwarded to the Entity and the commissioner for Finance/Economic Planning.

For Due Processing Certificate to be issued by the BPP&PI the compliance Review must validate the contract Award process followed by the procuring Entity was right, the winner being recommended is right and Cost is Right.

RESULT B (NEGATIVE)

Due Process Certificate Denied if the contract process does not correlate to the standard defined as a right contract award process, the BPP&PI shall withhold Due Process Certification.

The unit will also advise the spending Unit to re-procure. This is because "the procurement process is fundamental in determining the right cost and the right winner".

RESULT C (CONDITIONAL)

Where the cost posted by an emerging winner is a right contract process is higher than the fair cost. The issuance of a Due Process Certificate for Award will be made on satisfactory compliance with the project cost and conformity with parameters established by the Review.

In such an issuance, the winner would be advised through the procuring Entity to reduce their cost to conform with compliance Review Estimate Cost.

However, if such a winner declines, the offer will be made to the second least bidder. If the established right cost is rejected by all, the BPP&PI may advise the Agency to cancel the entire exercise re-advise.

Meeting during the Review Process

In the course of a Due Process Review, The BPP&PI and the spending units shall meet as often as necessary to resolve contentious issues that will help in making the best decision and securing the best outcome for the State Government Public Expenditure Management.

Prompt response to BPP & PI invitation for such a meeting or request for additional documentation whenever it arises is quite important in avoiding delays be paid for a mere 20% actual project performances on site.

EXPLANATORY NOTES ON THE DUE PROCESS CHECK-LIST

A. CERTIFICATION OF PROJECT READINESS FOR IMPLEMENTATION

A1: ALIGNMENT OF PROJECT WITH STATE GOVERNMENT STRATEGIC AND SECTORAL PRIORITIES

(Indicate any relevant laws, regulations and guidelines and state whether the proposed projects is compliance. Indicate geopolitical spread and position in ministerial priority). The presence of a project in the appropriate act is often evidence of compliance with the criterion.

A2: TECHNICAL & ECONOMIC APPRAISAL OF THE PROJECT
(Indicate whether feasibility study has been undertaken or whether is planned. Include final report and/or terms of reference for the planned. Indicate whether a financial/economic analysis has or will be conducted. Include all report and/or Terms of reference for the work. If any of these studies is considered no necessary, provide an explanation)

A3: PROJECT AND CONSULTANT/ENGINEERS ESTIMATES
(Indicate whether cost is in lien with the Consultant/Engineers estimate provide documentation)

A4: PROJECT DESIGNS

(Include Project designs and drawings, consultants preliminary and tender drawings should be provided when necessary this especially important to building and engineering projects).

A5: FINANCING, PROCUREMENT AND IMPLEMENTATION PLAN
(State and financing option considered, including the procurement implementation plans. A project procurement timetable should be included).

A6: ENVIRONMENTAL IMPACT ASSESSMENT REPORT

(Describe in quantitative terms the expected positive or negative environmental impact of the project. For negative impacts, make preliminary proposal for mitigating measures. Provide information on any applicable environmental or social regulations, laws or guidelines. Indicate whether an environmental and social assessment has or will be undertaken. Include final report and/or Terms of reference for the work. If such a study is considered not necessary, provide an explanation).

A7: OPERATIONAL MAINTENANCE MANUAL

(Operations and maintenance manual should be provided, particularly for plants and machinery procurement).

A8: EVIDENCE OF APPROPRIATE PACKAGING

(Identify steps taken to ensure successful realization of the project, the number and size of the lot into which the project or sub-projects will be broken for contracting purpose).

B. CERTIFICATION OF PROCUREMENT

B1: EVIDENCE OF ADVERTISEMENT FOR PRE-QUALIFICATION

(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).

CHAPTER IX

DUE PROCESS CERTIFICATION

Due process certification means issuance of a Due process Certificates to the procuring entity for complying with the rules. This is done after a careful review of the process that produces the winner and cost of the contract.

Please note that no Ministry, Agency or Department can be allowed access to the public treasury to pay for any capital project without a due process certificate.

The office of the Accountant General of the State and the Ministry of Finance will not honour any request for release of funds for any capital project except if such request is backed with a Due Process Certificate.

Types of Due Process Certificate

- (a) Due Process Certificate for Contract Award
- (b) Due Process Certificate of payment
- (c) Due Process Certificate for Contract Implementation

Due Process Certificate for contract award is issued when the Review of the submissions made by a spending unit of the Due Process Office, is verified that the contract is question passed the three-way Test of Due Process Review.

Process is right

Winner is right

Cost is right

The BPP&PI shall issues the Due Process Certificate for Award of Contract as a pre-requisite for State Executive Council (SEC) grant of final approval for award of all contracts of N50 million and above.

(b) Due Process Certificate for payment

For contracts above the N50 million threshold, the due process Review by the BPP&PI shall be passed to the Governor for approval.

Upon the final approval by the State Executive Council (SEC) the Unit issues a Due Process Certificate for payment of the advance sum not less than 30% of the contract sum.

This is usually backed by submission of an advance payment Guarantee/Bond issued by a reputable bank.

Original Due Process Certificate for payment shall be forwarded to the commissioners for Finance as well as Economic Planning for their records. A copy of the certificate shall also be forwarded to the entity for necessary processing for payment.

Based on positive evaluation reports by spending Units and their contracts, a due process certificate for payment could be issued at various states of the projects up to the amount of money budged for the project in the Appropriation Act. This is strictly based on the documentary evidence work done (physical performance).

However, as soon as aggregate payment reaches 50% of contract sum the BPP&PI will in addition to documentary evidence request a project site visitation. This is to be jointly carried out with the Spending Unit officials and Contractors/Consultants.

The aim is to avoid the recurrence of events of the past when for example, 100% of contract sum could provide 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 with 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 request for the adequate time was prospective bidders are answered promptly and completely in a written form. Provide evidence that where modifications were made to tender documents, bidders were given sufficient time to revise their 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 where bid opening procedure followed those specified in the State Government procurement guidelines. What information was read out at the opening ceremony? Provide copies of the minutes. Provide accurate records of all communication with bidders, before and after the deadline for submission).

B5: PROJECT DESIGNS AND DRAWINGS

(Indicate whether project designs and drawings has been prepared. If so, provide copies this is especially important for building and engineering projects)

B6: BIDS RETURN SHEET

(Provide copies of bids returns sheets duly signed by representative of BPP&PI, the Executing Agencies and all bidders present).

B7: BID EVALUATION REPORT

(Provide details members of Bid Evaluation Committee, indicating qualifications, designation and experience. Provide the basis of criteria for evaluation of bid 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 market survey was conducted to update knowledge of prevailing prices 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 was approved by management. And what changes were made by management and why?)

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

B10: ENGINEER'S CONSULTANT OR IN-HOUSE ESTIMATES
(Provide engineer's, consultant or in-house project estimates. Indicate whether these were done before bidding and whether they are comparably to prevailing prices on similar project in neighbouring/other states).

B11: APPROPRIATION/FUNDING
(Indicate whether there is provision for the project in the relevant appropriation acts. And indicate what efforts are being made to prioritise the project towards securing appropriation for the project up to completion).

C: CERTIFICATE OF IMPLEMENTATION

C1: POLICY FILE (Provide the policy file for the project)

C2: EXCO 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 acts and also indicate whether-funds have already been released to the executing agency'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 UTILIZATION OF EARLIER RELEASED FUNDS
(Provide documentation and evidence of funds released. Provide evidence of payment from these funds released. Provide evidence of payment from these funds.

Produced by:

M.N. ABDURRAHMAN

Director General

Due Process Office

Office of the Executive Governor

Sokoto