



**LAGOS STATE GOVERNMENT
LAGOS STATE PUBLIC PROCUREMENT
AGENCY (PPA)**

PROCUREMENT REGULATIONS

for

PUBLIC PROCUREMENT IN LAGOS STATE

2020

Section A -Goods, Works and Non-Consulting Services

**Public Procurement Regulations
For Goods, Works and Non-Consulting Services**

Commencement:

In the exercise of powers granted to it under the Public Procurement Agency Law 2015 the Lagos State Public Procurement Agency hereby makes the following Regulations:-

Part 1

General Provisions

1. These Regulations may be cited as the Public Procurement Regulations for Goods, Works and Services 2020. Citation and application

2. These Regulations shall apply to:
 - a) 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 under the Law. Section 79

 - (b) The Regulations for Consulting Services of an intellectual or advisory nature form part B of this regulations.

3. These Regulations for the procurement of Goods, Works and Consulting Service have been prepared by the Lagos State Public Procurement Agency (PPA) pursuant to the Lagos State Public Procurement Agency Law, Vol 6, Laws of Lagos State 2015 (the "Law") for use by the Procuring Entities and Consultants participating in public financed contracts.

4. These Regulations supersede all prior procurement Regulations, directives and or due process guidelines. Revocation of prior directives.

5. In these Regulations: - Interpretation

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

"Approval Instruments" means a Confirmation, Letter of No Objection and Certificate of Compliance

"Approving Authority" means the person charged with overall responsibility for the functioning of a ministry, extra-ministerial department, Agency or corporation;

"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 the bidder shall comply with the bidding process, instructions and every laid down procedure as stipulated and shall

not withdraw a bid within the period specified for acceptance and shall execute a written contract within the time specified in the bid.

“*BOO*” means Build, Own, Operate contracts;

“*BOT*” means Build, Operate, Transfer contracts;

“*BOOT*” means Build, Own, Operate and Transfer contracts

“*Certificate of Compliance*” means the document evidencing and authenticating that due process and the letters of this Law 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;

“*Coercive practice*” means force or threatening to use force, directly or indirectly, against persons or their property with intent to influence the manner of their participation in and/or their appropriate conduct of a procurement process and/ or the execution of a contract;

“*Conflict of interest*” means but is not limited to the following situations: where a person has a direct or indirect interest in or relationship with a Bidder that is or may be reasonably perceived to be unethical due to that person’s influence or ability to affect the procurement process;

where a person receives or benefits by taking personal advantage of an opportunity that properly belongs to the Procuring Entity he represents or the Government;

(c) where a person for his personal benefit discloses to unauthorized persons confidential information belonging to; the Procuring Entity, the Government, or a Bidder;

(d) where a supplier or contractor (or the firm with which it is affiliated) combines the functions of manufacturer or contractor with those of consultant;

Provided that a conflict of interest may not be inferred:

i. where a supplier/manufacturer or contractor’s bid is in combination with a firm offering services as a consultant and in its bid is included relevant information about such relationship along 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 firms (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;

“*Collusive practice*” means a scheme or an arrangement between two or more persons with or without the knowledge of the Procuring Entity, including non-disclosure of subsidiary relationships, designed to establish bid prices at artificial,

non-competitive levels thereby depriving the Procuring Entity of the benefits of free and open competition;

“*Corruption*” or “*corrupt practice*” means the offering, giving, receiving, or soliciting for anything of value to influence the action of a public official in the procurement process or in contract execution;

Corrupt, Collusive Practices or Fraudulent, Coercive Practices

“*Debar*” means the placing of a firm, company or natural person on a list of person ineligible to participate in any procurement proceedings under this Act;

“*Domestic firm*” means a business or professional organization:

- 1 incorporated or otherwise organized in Nigeria; and
- having its principal place of business located in Nigeria; and
- having at least 51% of its equity held by nationals of Nigeria; and
- not having its assets controlled by foreign national or organization incorporated or organized outside Nigeria; and
- with more than 50% of persons who will perform services under the contract whether employed directly or by a subcontractor being nationals of Nigeria.

“*Force Account*” means the procurement of civil works by a procuring entity using its own internal personnel, equipment and resources;

“*Force Account*” means “*Direct Labour*”

“*Excessive Price*” means a monetary value proposed by a bidder for any procurement which is in the estimation of the agency unreasonable and injudicious after consideration of the actual value of the item in question plus all reasonable imputations of cost and profit.

“*Fraudulent practice*” means any act or combined misrepresentation or omission of facts that affects the procurement process or contract execution to the detriment of the Procuring Entity;

“*Goods*” means objects of every kind and description including raw materials, products 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 Lagos State Government;

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

“*International Competitive Bidding*” means the solicitation of bids from both domestic and foreign contractors and suppliers;

“*Joint Venture*” means an association where all member firms or persons are jointly and severally liable for the entire contract and shall designate one party to act as a

leader with authority to bind the joint venture and to sign a contract with the Procurement Entity.

“Margin of Preference” means extra mark upon price allowed any domestic contractor or supplier bidding under International Competitive Bidding without being otherwise disadvantageous to the bid in terms of price;

“Minor Value” means a monetary value which is not in excess of the monetary thresholds set for any approving authority by the Agency;

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

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

“Non-Consulting Services” are services which are bid and contracted on the basis of performance of a measurable physical output and for which performance standard can be clearly identified and consistently applied such as drilling, area photographing, satellite imagery, mapping and similar operations.

“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;

“OCDS” means the Open Contracting Data Standard format for reporting;

“Procurement” means acquisition;

“Procurement Proceedings” means the initiation of the process of effecting a procurement up to the award 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;

“Project Management Team” means team responsible for the management and certification of all expenditures of procuring entity including goods, works and services.

“Relevant Authority” includes the Economic and Financial Crimes Commission and Independent Corrupt Practices Commission;

“Services” means the rendering by a contractor or supplier or service provider of his time and effort and technical expertise 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;

“Special Purpose Goods” means any object of armaments, ammunition, mechanical, electrical equipment or other things as may be determined by the President needed

by the Armed Forces or Police Force as well as the services incidental to the supply of the objects.

“*Subcontractor*”, means natural person, a legal person or combination of the above to whom any part of the goods to be supplied or works to be executed is subcontracted by the supplier or contractor,

“*Substantially Responsive*” means the response to bid solicitations which virtually answers to all the needs of a procuring entity as stipulated in the bid solicitation documents;

“*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;

“*Bid Validity 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 or 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.

6. If these Regulations conflict with the Government’s obligations under agreements with other countries or international organizations, the provisions under such international agreements shall prevail.

7. Where:

(a) a Procuring Entity establishes the use of corrupt, fraudulent, collusive or coercive practices of any kind in the procurement process, or

(b) the Agency establishes same during prior review or post review of procurement procedures or procurement audits,

the Procuring Entity shall immediately refer the matter to the Agency and/or the agency 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 contracts or reject a proposal for contract award, or

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

8. To be eligible to bid for and execute a public procurement contract, every Bidder shall:

Section 22 (5)

(a) possess the following:

- i. Professional and technical qualification to carry out particular procurement;
- ii. Financial capacity;
- iii. Equipment and other relevant infrastructure;
- iv. Personnel to perform the obligations of the procurement contract; and
- v. The legal capacity to enter into the procurement contract;
- vi. Not be in receivership, the subject of any form of insolvency or bankruptcy proceedings or the subject of any form of winding up petition or proceedings;
- vii. Have fulfilled all its obligations to pay taxes, pensions and social security contributions;
- viii. Not have any directors who have been convicted in any country for any criminal offence relating to fraud or financial impropriety or criminal misrepresentation or falsification of facts relating to any matter.

9. Government-owned or controlled enterprises in Nigeria may bid for goods and works within the purview of the Law only if they can establish that they:

Government-owned enterprises

(a) Will meet all the prerequisites set out in the bid solicitation; (b) are legally and financially autonomous;

(b) are subject to Nigerian commercial law and not exempted by statute from being sued or prosecuted;

(c) Do not receive any form of subsidy from the public treasury.

10. (i) All procurements 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 an Annual Procurement Plan to be approved by the Accounting Officer.

Procurement Plan

27, 28, 29

(ii) 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;

(f) be continuously updated as procurement progresses or new projects are developed in accordance with budgetary provisions.

(g) The plan should be based on the template issued by the Agency and

(h) Market research should be carried out to determine reasonable cost estimates.

11. No Procuring Entity shall require mandatory joint ventures, subcontracting or other forms of association or cooperation between firms whether domestic or otherwise. Mandatory associations prohibited
12. Whenever it is established that there exists one or a combination of the following instances, i.e.:
- a. If any part or the whole of procurement has been carried out by procedures other than those approved by the Agency; or
 - b. if procurement was not included in the Procurement Plan and it is not an emergency procurement under Section 60 of the Law.
 - c. if the terms and conditions of the contract are not satisfactory to the Agency; or
 - d. if the Agency comes to a determination that its certification was issued on the basis of false or misleading information

the Agency shall declare a mis-procurement and withdraw the certification and or such other approvals as have hitherto been given and shall initiate or apply such provisions of the Act as are relevant.

13. After the opening of bids, no information relating to the examination, clarification and evaluation of bids and recommendations concerning awards shall be disclosed either to any Bidder or to other persons not officially concerned with the procedure; until the award of contract is notified to the successful Bidder. Confidentiality Section 45
14. Subject to thresholds as may be set from time to time by Agency, Agency will review all Lagos procurements during the procurement process and prior to contract award to ensure that the procurement process is carried out in accordance with the approved procedures. Agency will also carry out periodic post review of contracts below the prior review thresholds. Review by Agency Section 16 (1) (a)(b), (c)
15. The Procuring Entities shall maintain records of each procurement process from the date of advertisement through contract signature and for a minimum of ten (10) years thereafter in such manner and formats as the AGENCY might prescribe. Record Keeping Section 66
16. Where a Bidder considers that its proposal has not been given appropriate attention and that it has or may suffer undue disadvantage due to a breach of an obligation in the selection procedure by a Procuring Entity with regards to the Law or these Regulations, the Bidder may seek administrative review by submitting a complaint in writing not later than 15 working days after it becomes aware of the circumstances giving rise to the complaint or when it should have become aware of such circumstances, whichever is earlier. Complaints and Appeals Section 69
17. The Bidder shall first submit its complaint to the Accounting Officer of the Procuring Entity issuing the bid document. The Accounting Officer shall respond in writing to

the Bidder within 15 working days stating what corrective action has or will be taken or if the complaint is rejected, stating the reasons for the rejection.

18. If the Bidder considers that its complaint has not been equitably dealt with or is otherwise dissatisfied with the decision of the Accounting Officer, it may submit an appeal to the Agency within 10 working days of its receipt of the Accounting Officer's decision. The Agency shall review the case and issue a written declaration within 21 working days stating what corrective action has or will be taken or if the appeal is rejected, stating the reasons for the rejection.
19. The following shall not be subject of a complaint or appeal:
 - a) complaints about the choice of the procurement method;
 - b) complaints about the rejection of all Bidders by the Procuring Entity;
 - c) complaints about a bid returned unopened because it was received after the submission deadline; and
 - d) complaints about a bid having been rejected because it was unsigned and/or not accompanied by a valid bid security if required, or submitted by a Bidder who was not prequalified.

Part II – Organization of Procurement Operations

20. Actual procurement activities will be carried out by the Procuring Entity. A Procuring Entity is a government ministry or a government agency where these Regulations are applicable in accordance with Section 77 of the Law.
21. The Accounting Officer will be the person responsible for the supervision of all procurement activities in the Procuring Entity. The Accounting Officer will establish a Procurement Office and a Tenders Board for the Procuring Entity.
22. The Tenders Board will be composed of:
 - a) Accounting Officer (Permanent Secretary or Chief Executive Officer) of the Procuring entity, who will be the Chairman;
 - b) Any four Heads of Department appointed by the Accounting Officer. The Procurement Office shall serve as the Secretariat to the Tenders Board and the Head of the Procurement Office will be a non-voting member and Secretary of the Tenders Board
23. The functions of the Accounting Officer, in addition to his responsibilities as contained in Section 30 of the Law shall be as follows:
 - (a) certifying the availability of funds required for procurement;
 - (b) committing of funds prior to contract placement;
 - (c) communicating award decisions;
 - (d) signing contracts;
 - (e) ensuring that the implementation of the awarded contract is in accordance with the terms and the conditions of award;
 - (f) implementing the recommendations of the Agency;
 - (g) establishment of and appointment of members of a tender board;

- (h) establishment of Procurement Planning Committee every year;
 - (i) investigation of a complaint by a bidder; and
 - (j) submission of reports of findings in respect of complaints to the Agency
24. The functions of the Tenders Board shall be to approve:
- a) Pre-qualification evaluation reports;
 - b) bid evaluation reports for goods and works;
 - c) technical evaluation reports for Consultant and services;
 - d) negotiated contracts for Consultant and services;
 - e) contract variations resulting in price changes.
25. The Procurement Office will have the responsibility of processing all procurement activities including the following:
- (a) Preparation of the procurement plan in conjunction with the procurement Planning Committee and approved by the Agency.
 - (b) preparation of tender notifications and request for expressions of interest;
 - (c) preparation and submission to advertising media of documents for soliciting quotations, prequalification, bidding and request for proposals;
 - (d) issuing documents for: soliciting quotations, prequalification, bidding and request for proposals;
 - (e) receiving and arranging opening of: prequalification documents, bids, quotations and, request for proposals;
 - (f) submission of evaluation reports to the Tenders Board for: prequalification, bids, quotations and consultants' proposals, for approval;
 - (g) submission of quotations for minor value procurements (as defined by the threshold) to the Accounting Officer for approval;
 - (h) making arrangements for contract negotiations;
 - (i) making arrangements for Letter of Award signing by the Accounting Officer;
 - (j) preparing documentation for submission to the Agency for approval;
 - (k) preparing responses to complaints for submission to the Tenders Board for approval;
 - (l) preparation of documentation on complaints for submission to the Agency;
 - (m) preparation of all data and information required by the Agency;
 - (n) any other assignment that will be given by the Accounting Officer that may be necessary to enhance the performance of the procurement function.

CONTRACT SUPERVISION AND ISSUANCE OF CERTIFICATE OF COMPLETION

26. Procurement Office shall participate in the area of monitoring, inspection and acceptance of goods, works and services carried out by the Procuring Entity.
27. The receipt of all goods and the validation of work completed for works and services are subject to inspection and verification by a Project Management Team.

MDAs shall raise Certificate of Completion and Payment Certificate and shall be duly signed by the MDA's Project Management Team members:

- A. The Project Management Team shall be comprised of Accounting Officer, Procurement Officer, User department, Subject matter expert, and one other professional officer as determined by Accounting Officer

28. Certification of Completion of Works for:

- i. Works awarded through contract.**
- ii. Works carried out by Direct Labour.**
- iii. Works carried out on Facility Management.**

A Certificate of Completion shall be raised in favour of completed projects certifying that the Works have been carried out in accordance with the specifications and other agreed terms and conditions.

- a) Certificate of Completion raised in favour of completed projects must be forwarded to PPA.
- b) For Works by Direct Labour, all requests for approval instrument shall include the specific jobs to be carried out upon which the Certificate of Completion would be raised after completion.

29. Certification for Receipt of Goods

For Goods, the Project Management Team shall issue a certificate that:

- (a) the Goods supplied are in accordance with the specifications and other agreed terms;
- (b) the quantity supplied is in accordance with the contract provisions;
- (c) all warranties, guarantees and manuals which are customarily supplied for such Goods or have been specifically agreed upon, have been provided.

30. Certification of Services Completed

For Services the Project Management team shall issue a certificate that the Services provided have been carried out in accordance with contractual provisions.

Part IV - Procurement Methods

- 31. The appropriate methods, procedures and contract award for public procurement of goods and works shall be subject to the prior review thresholds as may be set from time to time by the Board. Fundamental Principles
- 32. Value for money obtained through efficiency, fair access to bids and transparency, shall remain the main objective of the Procuring Entity.
- 33. Contracts shall not be split into smaller units in order to avoid competitive bidding or be distributed among various lots to different bidders to enlarge bidder participation at the cost of lesser economy and efficiency.
- 34. Except as otherwise provided in these Regulations, all Procuring Entities shall use Open Competitive bidding for the procurement of goods and works and related services. Open Competitive Bidding Section 32

35. The following procurement methods are to be used by Procuring Entities:
- a) Two-Stage Bidding for large and complex contracts where it is necessary to obtain first greater clarity in technical specifications and possible alternative technical approaches. Section 32 and 33
 - b) Restricted Tendering (RT) for contracts for which only a limited number of qualified suppliers or contractors exist.
 - c) Selective Bidding (or “Request for Quotations”) for small contracts, where it is sufficient to obtain written quotations from at least 3 reputable suppliers or contractors.
 - d) Single Source Procurement (or Direct Contracting) applied only in exceptional circumstances and always subject to the provision of this Law. Section 59

Framework contracting.

36. A framework contract is a schedule of rates or indefinite-delivery contract and shall be used-
- a) where a requirement is needed "on-call", but where the quantity and timing of the requirement cannot be defined in advance; or
 - b) to reduce procurement costs or lead times for a requirement which is needed repeatedly or continuously over a period of time by having them available on a "call off" basis

A bidder shall indicate the unit rate for each item.

- 37. A procuring entity shall indicate the estimated quantity or value where this is possible or necessary to obtain competitive bids but shall not make a commitment to purchase the full quantity or value.
- 38. Notwithstanding sub-regulation 36, a procuring entity may make a commitment to purchase a minimum quantity or value or to purchase all similar requirements from a successful bidder, where this is necessary or preferable to obtain competitive prices.
- 39. A framework contract shall state the arrangements for obtaining specific requirements during the period of the contract, using the placement of "call-off" or delivery orders where appropriate.
- 40. Payment shall be made on the basis of the works, services or supplies actually delivered or performed.
- 41. A framework contract may include fixed prices or provide for price adjustment in accordance with a pre-determined formula.

42. The use of any procurement methods shall be subject to monetary threshold and category as contained in the table below:

Thresholds for the Procurement Method Section 33(1)

METHOD	PROCEDURE	WORKS	GOODS, & NON-CONSULTING SERVICES
National shopping	Contractors/Suppliers to be subjected to Selective Tendering Process. MDA sources minimum of Three (3) quotations from reputable registered contractors/suppliers	Below N200M	Below 100M
National Competitive Bidding	To be done through Open Competitive Tendering. Advertisement to be in the Tenders Journal, MDAs Notice Board and PPAs website for a minimum of 2 weeks before deadline for submission.	N200M-N500M	N100M-N500M
National Competitive Bidding	Open Competitive Tendering – Advertisement shall be published on MDA’s Notice Board, one widely read Newspaper, PPA’s website and State Tenders Journal for a minimum of 2 weeks before deadline for submission. Contract award to be published in OCDS format on the PPA website	Above N500m	Above N500m
International Competitive Bidding	Open Competitive Tendering. Advertisement shall be published on the official website of MDA, 2 National Newspapers, PPA’s website, State Tenders Journal and one relevant International Journal for a minimum of 4 weeks before deadline for submission. Contract award to be published in OCDS format on the PPA website	Above N1Billion	Above N1Billion

43. In case of NCB and ICB for the procurement of large and complex works or equipment, or for the procurement of highly specialized contracts, *prequalification* of Bidders may be required in order to obtain a list of technically and financially qualified Bidders. In all cases of prequalification, only entities pre-qualified shall be invited to bid.

44. The Invitation for Prequalification shall contain the following information:

Invitation for Prequalification –Section 34 (1)

- a. name, address, telephone/fax number(s) and website address of the Procuring Agency;

- b. a brief description of the works for which Bidders will be pre-qualified;
 - c. information on any particular requirements to be met by suppliers and contractors;
 - d. a summary of the prequalification criteria;
 - e. a statement whether domestic preference, if any, will apply;
 - f. information on when and where the prequalification documents can be obtained and at what price; and
 - g. the place and the approximate deadline for the submission and opening of applications for prequalification.
45. Prequalification documents shall include:
- a. a summary of the purpose of the procurement, the principal terms and conditions of the contract
 - b. instructions on how to prepare and submit the application for prequalification, and at what location and what deadline
 - c. evidence to establish the eligibility and qualifications (technical and financial) of the applicant; and
 - d. the criteria and procedures for evaluation.
46. Procuring Entities shall give Bidders at least 21 days from the date when the notice to prequalify is published to submit their applications. Each Bidders having expressed its interest shall be supplied the prequalification documents at a set price, which shall not exceed the reasonable cost of printing, delivery and administration.
47. Bidders may request clarifications in writing up to 14 days before the submission deadline. A Procuring Entity shall promptly respond to such requests, and forward copies of its response, without identifying the source, to all Bidders who have acquired the prequalification document. As a result, Procuring Entities may deem it necessary to amend the prequalification document in accordance with the review of its requirements.
48. Upon completion of the evaluation procedure, a Procuring Entity shall notify all applicants in writing of the names of those Bidders who have been prequalified, and invite them to bid. The Procuring Entity will indicate to each disqualified applicant the main reason for its not having been prequalified. It shall publish the names of the prequalified Bidders in the procurement journal and on its website.
49. For open competitive Bidders, Procuring Entities shall give a time gap of a minimum of 2 weeks between the date of an advert inviting bids and the deadline for submissions of bids.
50. The Bid solicitations for National Competitive Bidding shall be advertised on the Procuring Entity's Notice Board, the Procurement Journal, one national newspaper (for thresholds above N500M under NCB) the website of the procuring entity and

Contents of the
Prequalification
Document
Section 34(3)

Submission of
Prequalification
Documents
Section 34

Clarifications
Section 52

Prequalification
Notification.
Section 34

Advertising
Section 33(2)

Section 33(3)

Agency in each case for a minimum of 2weeks before the date specified as final for bid submission.

51. The advertisement shall include but not limited to the following information:
 - a. name, address, telephone and website address of the Procuring Agency;
 - b. Brief description of the item to be procured including quantity, purpose and place of delivery or location where the works will be carried out
 - c. a statement whether domestic preference, if any, will apply;
 - d. information on any particular requirements to be met by suppliers and contractors;
 - e. information where the bid documents can be obtained and at what price; and
 - f. the place and deadline for the submission and opening of bids.

52. Bid procedures for International Competitive Bidding shall be advertised in at least two national newspapers with national circulation, one widely circulated international journal, the state procurement journal as well as the websites of the Procuring Entity and Agency in each case for a minimum of 4weeks before the date specified as final for bid submission.

International
Competitive
Bidding (ICB)
Section 33(2)

OTHER BID METHODS

53. TWO-STAGE BIDDING

(1) Two-stage bidding shall consist of :

- (a) Launching by the Procuring Entity of competitive bids for the preparation of design and technical specifications.; and
- (b) The invitation of parties with responsive designs to submit final technical *and* financial bids; provided in all cases that the Procuring Entity shall avail only Bidders who responded to the first stage to proceed to and participate in the second stage.

Following evaluation, the Procuring Entity may enter into confidential discussions with responsive Bidders, ask for technical clarifications and require necessary adjustments. The Procuring Entity shall in all cases ensure the confidentiality of the earlier technical proposals.

(2) Use of the two-stage bidding procedure is subject to the prior Letter of No-Objection of the Agency

54. RESTRICTED TENDERING

(1) A Procuring Entity shall, in using Restricted Tender prepare, and submit to Agency for a Letter of No Objection, a list of eligible national or international potential suppliers, or contractors as the case may be, which list shall be broad enough to assure competitive prices.

Restricted
Tender
(RT)Section
59(1) (2)

(2) Procurement For Restricted tender procedures, the Procuring entity shall invite tenders from the Suppliers and Contractors who are capable of providing the goods, work and services. In all other aspects, the procedures applicable to National Competitive Bidding shall apply also to Restricted Tendering, including the submission to Agency of the draft bidding documents for Letter of No Objection, when subject to prior review.

55. QUOTATIONS FOR GOODS, WORKS AND SERVICES

(1) Requests for Quotations for small value goods shall be issued in writing to not less than three reputable domestic suppliers and at the international level to at least three reputable suppliers in at least two different countries.

Request for
Quotations
(Selective
Tendering)

(2) Requests for Quotations for small civil works shall be issued to at least three reputable domestic contractors. The written requests shall state the purpose, payment source and terms, and provide for a reasonable time to submit quotations, and indicate the time and place of opening.

(3) The Procuring Entity shall not allow bidding by phone or other unverifiable means.

(4) Quotations for Goods shall indicate the description, technical specifications and quantity and cost of the goods, including the cost of inland transportation and insurance as the case may be, as well as the estimated delivery time if not immediately available. Quotations for small works shall include the necessary drawings, estimated quantities, and completion time. Quotations shall be given in writing. All quotations submitted on or before the specified closing date shall be opened, evaluated and shall be awarded to the lowest evaluated responsive Bidder. The procedure to follow for procurement by RFQ would be:

1. Each PE should maintain a list of service providers registered by the Agency and for regular procurements, should invite only suppliers on the list to quote;
 2. Review the list to ensure that all service providers on the list are qualified;
 3. Provide regular opportunities for new service providers to join the registered supplier list;
 4. Obtain at least 3 and maximum of 6 quotations from reputable service providers;
 5. Use rotation, so that all service providers on the list have equal opportunity;
- All statements of requirements shall be distributed to service providers in writing and all quotations from service providers shall be submitted in writing.

(5) The analysis and recommendation for an award shall be recorded in a brief evaluation report, signed by the responsible authority of the Procuring Entity and filed in the procurement records. For contracts below a threshold set by the Agency, the Procuring Entity may proceed with the Quotation procedure without prior approval of the Agency.

(6) Subject to prior approval of Agency (to be provided on the basis of sufficient justification by the Procuring Entity) a Procuring Entity may be allowed to proceed to direct contracting for a particular supplier or contractor without competition, in the following circumstances:

Direct Contracting

- (a) in response to a natural disaster;
- (b) in the case of national security, if so justified by the Agency;
- (c) when equipment is proprietary in character and is obtainable only from one supplier;
- (d) when buying small or off-the-shelf items of minor value;
- (e) when standardization or compatibility is important and equipment and spare parts required for expansion or repair of existing equipment must be procured from the original supplier or from a supplier of identical goods;
- (f) when the contractor responsible for a process design requires the purchase of critical items from a particular supplier as a condition of the performance guarantee;
- (g) when, after the goods originally envisaged for the project have been procured through ICB, an additional quantity of the same goods is urgently needed to meet the requirements of the project, and when the AGENCY can be satisfied that there is no advantage to obtaining these items through NCB or ICB; and
- (h) when the civil works to be undertaken are a natural extension of an earlier or ongoing job, for which the corresponding contract had been awarded

following NCB or ICB satisfactory to the Agency, and when it can be shown to the satisfaction of the Agency that the engagement of the same contractor will be more economical than normal bidding, and will ensure compatibility of results in terms of quality of work.

56. Force Account means the procurement of civil works by a Procuring Entity using its own personnel, equipment and resources under its control for the execution of the works in question. This method may be employed in exceptional circumstances:

Force
Account

- (a) when the size, nature and location of the works are such that qualified contractors are unlikely to bid;
- (b) when the quantities of work cannot be defined in advance;
- (c) when ongoing works are interrupted due to breach of contract or contractor failure and need to be continued to avoid serious damage;
- (d) when the procurement would be carried out by the engineering services or
- (e) when there are emergencies requiring immediate attention.

57. In all cases of procurements to be carried out on a Force Account, the Procuring Entity involved shall ensure to the satisfaction of the Agency that:

- (a) personnel deployed to execute such civil works possess the requisite technical certification, professional experience, and managerial ability;
- (b) the equipment and resources to be deployed towards the execution of the procurement are such as are technically appropriate and numerically sufficient to assure the execution of the procurement;
- (c) The combination of (a) and (b) above shall in every case assure that the procurement is executed expeditiously, efficiently, and at reasonable costs.

58. Following the occurrence of natural disasters such as droughts, floods, pandemics, civil disturbances, insurrections, war or such times that government declares that an emergency situation has arisen, Procuring Entities may for causes *directly related* to the alleviation or remediation of the aforementioned circumstances carry out direct contracting of goods, works and related services in accordance with the emergency procurement guidelines formulated by the Agency. In such circumstance, every Procuring Entity shall apply principles of sound procurement, economy, efficiency, transparency and accountability. At the end of the emergency situation, Procuring Entities that have applied emergency procurements shall prepare a report to the agency for its approval on the procurements so carried out. Subsequent procurements shall apply the Regulations without exception.

Procedures
Section 60

59. Procurement of Medicals:

- (1) Life-saving health commodities, supplies, and equipment shall be treated as items of public interest in their procurement.
- (2) The Procuring entity shall, in consideration of their importance and nature, by approval of Medical Director, fast-track their procurement process or use emergency procurement.
- (3) Where the procurement referred under subsection (1) is to be done under emergency procurement, the Procurement Office shall carry out the Procurement Process adopting Framework agreement or Framework contract for the execution of such emergency procurement.

60. Where a Procuring Entity lacks the necessary organization, resources, and experience it may employ (or be required by the Agency to employ) as its agent, a firm specializing in handling procurement. The agent shall strictly follow all the procurement procedures outlined in the contract on behalf of the Procuring Entity, including the use of the Agency Standard Bidding Documents, review procedures and documentation.

Inspection
Agents

61. **Management Contractors** may be employed in a similar manner for a fee to contract for miscellaneous works involving reconstruction, repairs, rehabilitation, and new constructions in emergency situations, or where large numbers of small contracts are involved. Agency's Guidelines for the Use of Consultants shall be used to acquire the services of the Procurement Agent or a Management Consultant on a competitive basis.

62. If a Procuring Entity is participating in financing the cost of a project procured under a BOO, BOT, BOOT or similar type of contract, either of the following procurement procedures shall be used, as set forth in detail in the Financing Agreement with the private entrepreneur:

(a) The entrepreneur under the BOO, BOT, BOOT or similar type of contract may be selected under an open competitive or selective tendering procedure in line with Agency's guidelines, which may include several stages in order to arrive at the optimal combination of evaluation criteria, such as the cost and magnitude of the financing offered, the performance specifications of the facilities offered, the cost charged to the user or purchaser, other income generated for the Procuring Entity or purchaser by the facility, and the period of the facility's depreciation. The said entrepreneur selected in this manner shall then be free to procure the goods, works and services required for the facility from eligible sources, using its own procedures. In this case, the Financing Agreement shall specify the type of expenditures incurred by the said entrepreneur towards which the financing of the Procuring Entity will apply.

or,

(b) If the said entrepreneur has not been selected in the manner set forth in subparagraph (a) above, the goods, works or services required for the facility and to be financed by the Procuring Entity shall be procured in accordance with open ICB or RT procedures.

63. Participation in the Open Competitive or Selective Tendering procedure in the above arrangements shall proceed in accordance with Agency Guidelines.

Part IV: Procedures for Bid Preparation, Submission, Opening, Evaluation and Award of Contract

64. Sequel to the advertisement of a bid, bid documentation shall be made available to all prospective Bidders at reasonable prices not exceeding the cost of printing, delivery and administration. In the event of pre-qualification, bid documents shall only be issued to prequalified Bidders. Unless otherwise agreed by the Agency, only Standard Bidding and Contract documents issued by the Agency shall be used. Purchase of the Bid Documents . Section 35
65. After the advertisement/commencement of a bid proceeding, Procuring Entities may not communicate with prospective Bidders in any manner other than as provided for under the Law or these Regulations.
66. For complex works or supply contracts, a pre-bid meeting may be arranged where potential Bidders meet with the representatives of the Procuring Entity to seek clarifications. Minutes of the meeting shall be duly recorded by the Procuring Entity and provided to all prospective Bidders. Pre-bid meetings.
67. Any additional information, clarification, correction of errors or modifications of the bid document provided to *any* prospective Bidders shall be simultaneously sent to each purchaser of the original bid document. Such information, clarification, correction of errors or modifications shall be provided or made in time sufficient before the bid submission deadline to enable Bidders to take appropriate action.
68. If necessary, the Procuring Entity may extend the submission deadline. Procuring Entities shall provide reasonable access to project sites for visits by prospective Bidders.
69. A Bidder may modify or withdraw its bid prior to the submission deadline in accordance with the provisions in the bid solicitation. Bid modification or withdrawal . Section 40(4)
70. Bids shall remain valid for the period specified in the bid solicitation. Such period must be sufficient to enable a Procuring Entity complete the evaluation and comparison of bids and to obtain all necessary approvals, including the Certificate of Compliance of the Agency such that a contract award may be made within the validity period. Validity of Bids. Section 40(1)
71. If an extension of bid validity becomes necessary due to unforeseen difficulties in the bid evaluation and award process, the Procuring Entity shall request the Bidder to extend the validity of its bid for such period as would be the minimum required to complete the evaluation, obtain the necessary approvals and award the contract. Extension of Validity of Bids. Section 40(2)(3)
72. In the case of fixed-price contracts, requests for second and subsequent extensions will be permissible only if the request for an extension provides for an appropriate

adjustment mechanism of the quoted price to reflect changes in the cost of inputs for the contract over the period of the extension.

73. Whenever an extension of the bid validity period is requested, a Bidder shall not be asked or be permitted to change the quoted (base) price or other conditions of its bid. A Bidder shall have the right to refuse to grant such an extension without forfeiting its bid security, but a Bidder willing to extend the validity of its bid shall be required to provide a suitable extension of its bid security.
74. Procuring Entities may require Bidders to provide bid security, which must be original, to secure the validity of the bid within the period specified in the bid documents. The bid security shall be in the amount indicated in the bid documents, as specified by the Agency. Bid Security Section 36 (1), (2),
75. The format of the bid security shall be in accordance with the form included in the bid documents and Bidders may enquire from the Procuring Entity in advance if a particular issuing entity of security is acceptable. If an issuing entity is foreign but the security is otherwise in conformity with the requirements in the bid document, the Procuring Entity shall not reject the security.
76. To ensure confidentiality of the bid price, bid securities should be set in amounts for all Bidders, in relation to the size of the contract. Provided the amount is not less than 1% of the bid price and not more than 2% of the bid price.
77. The bid security shall remain valid for a period of four weeks beyond the validity period of the bids, in order to provide reasonable time for the Procuring Entity to act if the security is to be called or till the performance security of the successful Bidder is obtained at contract award. The Procuring Entity shall return the bid securities to the unsuccessful Bidders once it has signed the contract with the successful Bidder and obtained its performance security. Validity and Return of the Bid Security.4 0(1), (2),
78. The Procuring Entity will call the bid security (a) when a Bidder withdraws or modifies its bid after bid submission; (b) if a Bidder fails to sign the contract or comply with any other condition of contract signature, and (c) if a Bidder fails to produce a valid performance security after acceptance of the bid award. Calling of the Bid Security.40 (3) (4)
79. Bids shall be (a) properly identified by the Bidders in order not to be mistaken with other bids; (b) signed by a legal person who is authorized to bind the Bidder, and (c) delivered in sealed envelopes at the location indicated in the bid document and no later than at the stipulated time. Technical and financial components of the bid shall be submitted in separate sealed envelopes. Bid Submission Procedure. Section 37, (1)
80. The Procuring Entity shall register the bids received, issue a receipt for them, and place them in a tamper-proof location. Bids received after the deadline shall be returned to the Bidders unopened. Section 37 (5)-(6)
81. At least two weeks prior to the opening of the bids, the Accounting Officer of the Procuring Entity shall constitute the Evaluation Committee which shall be chaired by the Secretary of the Tenders Board.
82. The Accounting Officer shall constitute a five-member Evaluation Committee consisting of the following:

- a. Procurement Officer;
 - b. A representative of the end-user Department
 - c. The subject matter expert (who may be invited from relevant MDAs, if not available in-house)
 - d. A Legal Officer
 - e. The Finance and Accounts Officer
83. For large works, the procuring entity shall where necessary seek requisite approval from the Agency to expand the membership of the Evaluation Committee
84. The date, hour and place for the receipt of bids and for the bid opening shall be announced in the invitation to tender. The time for bid opening shall be the same as for the deadline for the receipt of bids or, if bids are received in a location different from the place of bid opening, promptly thereafter, allowing just sufficient time to take the bids to the place announced for bid opening. Opening Date of the Bids. Section 41 (a) (b), (c) (d)
85. Bids shall be opened in public and Bidders or their representatives shall be allowed to be present and verify that the bids have not been tampered with. Bids received after this time shall be returned unopened. The name of the Bidders and total amount of each bid and of any alternative bids if they have been requested or permitted shall be read aloud and recorded in the Minutes of Bid Opening. Bidders or their representatives present shall sign the Register for Bid Opening. A copy of these Minutes signed by the designated authority shall promptly be sent to all Bidders who submitted bids in time. After the closure of the bid opening session, the Procuring Entity shall ensure the safe-keeping of the bid documents. Public Opening.

Examination and Comparison of Bids

86. No information relating to the examination, clarification and evaluation of bids and recommendations concerning awards shall be communicated to any person not officially concerned with these procedures until the award of a contract to the successful Bidder is announced. Confidentiality of Procedures
87. The Procuring Entity shall use, or ensure the use of, the Agency Standard Bid Evaluation Report for the Evaluation of Goods and Works to detail the specific reasons on which the determination for the recommendation for the award of contract is made. If the procurement is subject to prior review by Agency, the Procuring Entity shall send this Report to Agency with the Procuring Entity's contract award recommendation for Agency's comments and "Certificate of Compliance" before the award of a contract to the successful Bidder is announced. The Report to Agency on the evaluation and comparison of bids shall be accompanied by the three lowest evaluated cost bids. If the procurement is subject to post review, the evaluation report and award recommendation shall be approved by the designated authority of the Procuring Entity. Use of Standard Evaluation Form.
88. The Procuring Entity shall carry out the bid evaluation in two phases: (a) a Preliminary examination and (b) Detailed Evaluation and Comparison of Bids, in accordance with the evaluation criteria stipulated in the bid document, in order to select the lowest responsive cost bid. The technical evaluation shall precede Evaluation Procedure

financial evaluation, with only those bids determined to be substantially responsive, without any major deviation, proceeding to financial evaluation.

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| 89. | The Procuring Entity shall carry out the preliminary examination to verify if the bids are substantially responsive to the bid document i.e. whether the bid (a) has been properly signed and changes initialled, (b) is accompanied by a valid bid security, if required, (c) meets the laid down eligibility requirements (d) is complete, (e) quote prices for all items in the lot or package as stipulated in the bid document, (f) contains computational (arithmetic) errors, and (g) is generally in order. | Preliminary examination. Section 42 (1) (a)-(d) |
| 90. | If a bid does not substantially conform to the specifications, or contains inadmissible reservations or is not otherwise substantially responsive to the bid document, it shall not be considered further and shall be mentioned as “rejected” in the Evaluation Report. However, a bid should not be rejected on minor procedural grounds, which can be rectified through the clarification process. | |
| 91. | If a Procuring Entity deems it necessary to seek clarifications from a Bidder after bid opening, Bidder shall not be permitted or requested to alter their bids or to change the substance or price of the bids. | Clarification or Alteration of Bids during Evaluation Section 42 (2) |
| 92. | The bid price read out at bid opening shall be adjusted for any arithmetical errors, and adjustments shall be made for any quantifiable nonmaterial deviations or reservations. Price adjustment provisions applying to the period of implementation of the contract shall not be taken into account in the evaluation. The Procuring Entity shall notify the Bidders of arithmetical errors made. If the Bidder does not agree with this notification, its bid shall be rejected. | Arithmetical Errors Section 42 (4)(5) |
| 93. | When bid prices are expressed in foreign currency or several currencies, the price of the bids shall be converted into Naira at the medium exchange rate of the Central Bank of Nigeria prevailing on the day of the opening of the tender. | Currency Conversion . Section 22(27) |
| 94. | For the supply of imported goods, the evaluation and comparison of bids shall be on the basis of CIP or CIF price. For goods manufactured in Nigeria, Ex Works prices are evaluated and compared. If bids are on the basis of CIP (Place of Destination), the cost of inland transportation and insurance to the place of destination shall be added to the price of domestically produced goods. | Transportation and Insurance Section 62 |
| 95. | All contracts, including turnkey contracts, shall be responsible for all duties, taxes and other levies. The Contractors shall take these factors into account in preparing their bids. The evaluation and comparison of such bids/contracts shall be on this basis. Bid evaluation for works shall be strictly in monetary terms. If time is a critical factor, the value of early completion to the Procuring Entity may be taken into account according to criteria presented in the bidding document, but only if the conditions of contract also provide for commensurate penalties for noncompliance. | Payment of Taxes and Levies on Contracts. |
| 96. | The Procuring Entity shall notify Bidders of major deviations and the resulting rejection of their bids. Deviations may be clarified by Bidders but not withdrawn. | Deviations. Section 42 (5) |
| 97. | Major deviations for Goods are | |

- (a) incompatibility with the technical specifications;
- (b) unacceptable commercial terms; and
- (c) proposed performance criteria, which do not meet those specified in the bid documents.

98. Major deviations for works are:

- (a) unacceptable subcontracting contrary to the terms in the bid document;
- (b) unacceptable time-phasing in construction;
- (c) unacceptable alternative design if the alternative design is permitted or proposing an alternative design when none is permitted and the bid does not respond to the requested design;
- (d) proposing a bid subject to price adjustment when the bid documents call for a fixed price; and
- (e) in the case of prequalification, a bid from a Bidder who was not prequalified.

99. Minor Deviations include:

- (a) The use of codes;
- (b) Alternative design;
- (c) Alternative workmanship;
- (d) Omission in minor items;
- (e) Arithmetical errors;
- (f) Completion period where these are not of essence;
- (g) Any other condition that has little impact on the bid.

100. If the bid document asks for alternative bids or designs, the Bidders shall first quote the price for the base method and specifications indicated in the bid document and secondly indicate the price for the deviation or alternative solution. Only the alternative bid of the substantially responsive lowest evaluated bid shall be considered for contract award.

101. In the case of ICB, when comparing bids from foreign contractors or suppliers with national Bidders, Procuring Entities may grant a margin of preference to domestic contractors, and suppliers of goods substantially manufactured in Nigeria. Where foreign bidders offer to bid in case of NCB the policy of domestic preference also applies. The Agency will from time to time set the margins of preference to be granted. Bid documents may provide a domestic preference of 15% of the delivered price for goods and 7.5 % for works. The procedure for evaluating margins of preference is explained in Schedule 2. Domestic preference is only applicable if provided for in the bid document.

No concession shall be given to domestic suppliers or goods in meeting the threshold in the technical specifications; and

102. At the time of contract award, in the event of prequalification, the Procuring Entity shall verify that the information provided in the prequalification application of the selected Bidders is still valid. Similarly, such post qualification will be applied with reference to the information provided by selected Bidders in a bid procedure without prequalification. In both cases, the Procuring Entity may deny the award to a Bidder who is judged no longer to have the capability or resources to perform the contract successfully and award the contract to the next lowest evaluated responsive Bidder. Post qualification.
103. Before the acceptance of a bid, the Procuring Entity may reject the bids, or cancel the procurement proceedings, without incurring any liability towards the Bidders. Rejection of Bids. Section 39
104. Alternatively, the Procuring Entity may consider a reduction in the scope and size of the contract, which may reduce the contract price. Following Certificate of Compliance from Agency, the Procuring Entity may then negotiate with the lowest evaluated Bidders to try to obtain a satisfactory contract on the basis of the revised terms and conditions. Reduction in scope and size to lower price.
105. The rejection of all Bidders requires the prior approval of the Agency. Rejection of all bids.
106. If following competitive bidding only one bid has been received and the bid is of good quality, meets the requirements of the bid document, is technically and financially responsive compared to market prices, and otherwise in order, the bid can be accepted and, following evaluation, awarded to the sole Bidder. Only one bid received.
107. The Procuring Entity shall proceed with the award of the contract within the period of the bid validity, with the Bidder who meets the appropriate standards of technical capability and financial resources and whose bid has been determined to be substantially responsive to the bid documents and to offer the technically acceptable lowest evaluated cost. Such Bidders shall not be required, as a condition of award, to undertake responsibilities or work not stipulated in the specifications or to modify its bid as originally submitted. Award of Contract.
- Where the contract is within the approving authority of the Procuring Entity, the Tenders Board shall promptly notify the successful Bidder that it has been awarded the contract and invite it to execute the contract agreement, within the time period of the validity of the bids. If the successful bidder refuses to enter into a contract, i.e. that his bid security should be forfeited and the contract offered to the second lowest evaluated bidder. The terms and conditions of the contract shall not materially differ from those which were included in the bid document and on the basis of which the bids were invited. Notification of award and contract signature. Section 46(3).
108. In the case of ICB contracts, if there are no or only minor changes in the draft contract, the Procuring Entity and the selected Bidder may finalize the contract by facsimile or electronic mail.
109. The Procuring Entity shall furnish to Agency a copy of the signed contract. If the procurement is subject to Prior Review by Agency, notification and award are subject to the Agency's prior approval. If the approving authority is Agency, the Procuring Entity, the Procuring Entity's notification is only to inform the Bidder

and it shall be formally notified when the final approval has been obtained. In any event, notification shall be given within the bid validity period.

110. If the procurement is subject to prior review and Agency determines that the proposed award is not consistent with the terms of the bid document or is otherwise inconsistent with approved procurement procedures, it will promptly inform the Procuring Entity stating the reasons for its decision, and the bid shall not receive Agency's certification for contract award. Agency certification of contract award.
111. Security for the guarantee of performance by the Bidders shall be provided by the selected Bidders prior to contract signature. Performance Security precondition of contract award. Section 63
112. Prior to the signing of the contract, the successful bidder shall post a performance security, subject to thresholds approved by the Board from time to time, as a further measure of guarantee for the faithful performance of the procurement contract and compliance with his obligation under the contract. The amount of the security will not be less than 5% or more than 10% of the contract value. However, the bid and contract documents shall require that if through change orders or for other reasons the value of the contract price exceeds the amount of the original contract price by a certain percentage (determined by the Agency), the security will be increased by a proportional amount (also determined by the Agency). The performance security shall be discharged after completion of the contract and expiration of the warranty period if there is no default.

Part V. - Main Aspects of the Standard Bidding Documents.

113. Procuring Entities shall use the appropriate Standard Bidding Documents issued by the Agency. Any changes to address project-specific issues shall be introduced only through the Specific Instructions in the bid solicitation documents, or through Specific Conditions of contract, *but not* by introducing changes in the Standard Instruction to Bidders or the General Conditions of Contract of the SBDs. Standard Documents
114. The bid documents shall furnish all the information necessary for a Bidder to prepare a bid for the goods, works and related services to be supplied. Contents of the Bid Documents
115. All bid documents shall include as a minimum
- (a) the Invitation to Bid;
 - (b) Instructions to Bidders (ITB)
 - (c) Specific Instructions to Bidders;
 - (c) Form of Bid;
 - (d) Form of Contract;
 - (e) Conditions of Contract, both General and Special;
 - (f) Technical Specifications;
 - (g) Bills of Quantities and Drawings;
 - (h) Schedule of Prices;

- (i) Delivery time or Schedule of Completion; and
 - (j) Necessary appendices, including forms for proforma bid bonds, performance guarantee and advance payment guarantee.
116. If a fee is charged for the bid documents, it shall be reasonable and reflect only the cost of their printing and delivery to prospective Bidders. Purchase of SBDs.
117. Bid documents for ICB shall be prepared only in the English language. Language. Section 37(4)
118. Bid documents and specifications shall be worded in such a manner so as to permit and encourage competitive bids and shall set forth, as clearly and precisely as possible, the work to be accomplished, the goods, works and related services to be supplied, the place of delivery or installation, warranty and maintenance requirements, and any other pertinent terms and conditions such as the provision of domestic preference if any. Clarity of Bid Documents
119. The bid documents, where appropriate, shall define the test, standards and methods that will be utilized to judge conformity with the original equipment specifications, quality of works and delivery time. Drawings shall be consistent with the text of the technical specifications and, where appropriate, an order of preference between the two shall be specified.
120. All prospective Bidders shall be provided with the same information and shall be assured of equal opportunities to obtain additional information on a timely basis. The documents shall clearly spell out Essential Bid Information.
- (a) all factors, including price, which will be taken into account in evaluating and comparing bids;
 - (b) how the evaluation criteria will be quantified or otherwise evaluated (methods, terms and conditions of bid evaluation); and
 - (c) if alternative bids, based on alternative designs, materials, completion schedules, payment terms, are permitted. In this case, the bid documents shall clearly state the conditions for their acceptability and the method of their evaluation and require that goods, equipment and works meeting generally accepted business standards shall be of equal or higher equivalence.
121. Technical specifications and standards quoted in bid documents shall promote the broadest possible competition while assuring the critical performance or other requirements for the goods, works and related services under procurement. As far as possible, the Procuring Entity shall specify generally accepted standards such as those issued by National and International Standards Organizations with which the equipment or materials or workmanship shall comply. Specifications.
122. Specifications shall be based on relevant characteristics, performance, capability, and quality, and shall not prescribe brand names, catalogue numbers, or products of a specific manufacturer. If it is necessary to quote a brand name or catalogue number of a particular manufacturer to clarify an otherwise incomplete specification, the words “*or equivalent*” shall be added after such reference, except in very special cases when specific spare parts are required where a degree of Specifications for Equipment and Use of

- standardization is necessary to maintain certain essential features. In such cases, and where appropriate, the specifications shall permit acceptance of alternative goods which have similar characteristics and provide performance and quality at least equal to those specified. In all cases where brand names are deemed justified to be procured, prior approval of the Agency must be obtained. Brand Names.
123. Bidders shall be required to submit bids valid for the period specified in the bid documents. Such period must be sufficient to enable a Procuring Entity to complete the evaluation and comparison of bids, obtain all necessary approvals including the Certificate of Compliance of the Agency and contract signature. Validity of Bids. Section 39 (1)
124. In any case, bid validity should not be for less than 60 days or more than 180 days in the first instance.
125. Prices for bids under NCB shall be quoted in Naira.
126. Prices for bids under ICB shall be expressed in widely used international currencies, as stated in the bid document. However, the portion of the bid price representing local costs shall be expressed in Naira. Currency of Bids. Section 22 (27),
127. In the case of ICB, the bid solicitation document shall state the date for conversion to Naira, which should be the date of bid submission/opening. The source for the conversion rate shall be the medium selling rate of the Central Bank of Nigeria. Contract payments sequel to a contract award shall be made in the currency or currencies in which the price is expressed in the successful bid.
128. **For goods**, the Procuring Entity shall invite bids under ICB on the basis of CIF (port of destination) or CIP (place of destination) for all goods offered from and manufactured abroad, including those previously imported, and Ex Works, Ex-factory or off-the-shelf for goods manufactured in Nigeria. Bidders may arrange for the ocean and other transportation and related insurance from any eligible source in accordance with national eligibility requirements. Where installation, commissioning or other similar services are required to be performed by the Bidders, as in the case of “supply and installation” contracts, the Bidders shall be required to quote additionally for these services. Pricing for international bids.
129. **For works**, ICB contracts shall be priced to include all duties, taxes and other levies.
130. Bidders for civil works contracts shall be required to quote unit prices or lump sum prices for the performance of the works, and such prices shall include all duties, taxes, and other levies for all procurement methods. Pricing for Civil Works
131. In the case of Turnkey Contracts, the Bidders shall be required to quote the price of the installed plant at the site, including all costs for the supply of equipment, marine and local transportation and insurance, installation, and commissioning, as well as associated works and all other services included in the scope of contract such as design, maintenance, operation. Unless otherwise specified in the bid documents, the turnkey price shall include all duties, taxes, and other levies. Turnkey Contracts
132. Bid documents shall state either that (i) bid prices will be fixed or (ii) that price adjustments will be made to reflect any changes in major cost components of the contract, such as labour, equipment, materials, and fuel. Fixed-price contracts are to be used where the content, duration and outputs of the procurement are well- Price Adjustment

defined and that price adjustment contracts are to be used only in exceptional circumstances with the prior approval of Agency for contracts of 18 months or longer and where key cost factors cannot be established at the time of contract formation. The formula(e) shall be clearly defined in the bidding document and the base date for application.

- 133. The bid documents shall state precisely the types and terms of insurance to be provided by the Bidders and shall indicate the kinds of risks to be insured against, the liabilities to be covered, and the duration of the insurance. Transportation and Insurance.
- 134. For goods, the indemnity payable under transportation insurance shall be at least 110 percent of the contract amount in the currency of the contract, to enable prompt replacement of lost or damaged goods.
- 135. For works, a Contractor's All Risk form of policy shall be specified. The type and extent of insurance to be taken out is to be fully covered in the Contract.
- 136. If alternative bids are allowed, the Bid Documents shall state clearly how such bids shall be submitted, prices shall be offered and how they shall be evaluated. Alternative Bids.

Main Aspects of the Contract Documents

- 137. The contract documents shall clearly define the scope of work to be performed, the goods to be supplied, the rights and obligations of the Procuring Entity, the Supplier or the Contractor, and the functions and authority of the engineer, architect or construction manager, if one is employed by the Procuring Entity in the supervision and administration of the contract, including payments and advances to be made if any. In addition to the general conditions of contract, special conditions shall specify the types of goods and works to be procured and the location of the project site where they should be delivered. The conditions of contract shall provide a balanced allocation of risks and liabilities. Conditions of Contract.
- 138. Bid documents for goods and works shall require a performance security in the form of a guarantee from a bank or a performance bond from an insurance company acceptable to the Procuring Entity, in accordance with the form included in the bid documents, and in an amount sufficient to protect the Procuring Entity against unsatisfactory quality of the goods, non-performance of the goods contract or the equipment installed, or non-completion of the works. Performance security. Section 63
- 139. For Works, a portion of the security shall extend beyond the date of completion to cover the defects liability or maintenance period up to final acceptance by the Procuring Entity.
- 140. In contracts for Goods, guarantees to protect the Procuring Entity against non-performance of the contract are required only when this is a normal commercial practice under the market conditions for the goods in question.
- 141. In supply and installation contracts, the performance security extends until acceptance of the installed plant and is usually replaced by a warranty for the warranty period.
- 142. Payment terms shall be in accordance with the national law and the commercial practices applicable to the specific goods and works to be supplied, and in Terms and Methods of Payment.

- accordance with the contract. Payments under the contract shall be made in the currency stipulated in the Contract. Section 64(1) – (4)
143. Payments for Works are made on the basis of progress made and shall be certified by the supervising authority.
144. Contracts for the supply of Goods shall provide for the payment on the delivery and inspection, if so required, of the contracted goods except for contracts involving installation and commissioning, in which case a portion of the payment may be made after the supplier has complied with all its obligations under the contract.
145. Contracts for works may provide for mobilization fees and advances to the contractor. If so agreed, the contract documents shall Mobilization Fees. Section 63 (1) (2)
- (a) specify any advances that may be made for the supply of equipment and machinery, mobilization expenditures, or shipment of materials on-site in percentages of the contract price,
 - (b) require that such advance payments shall be covered by an unconditional and irrevocable bank guarantee issued by a bank acceptable to the Procuring Entity, or a bond issued by an institution acceptable to the Procuring Entity, and
 - (c) specify the modalities and the terms and conditions under which the guarantee will be recovered and released.
146. Advance payments made upon signature of the contract for mobilization and expenses should not exceed forty percent of the contract price. An advance payment above 40% shall require the approval of the Governor which shall be based on the recommendation of the procuring entity where a supplier or contractor submits a written request justifying the need for such payment.
147. During the execution of a contract, changes may occur in the quantity of work done requiring amendments to the contract agreement between the Procuring Entity and the contractor. Such amendments are executed by change order or variation order, provisions for which are made in the Special Conditions of Contract and are justified in the reports on the contract execution. The Procuring Entity shall seek Agency’s certificate of compliance prior to the proposed amendment if the contract is above the prior review threshold or the tenders board when the contract is below the prior review threshold. Any additional work or quantities of goods ordered are to be charged on the same basis as in the contract for the original work unless a price adjustment is justified. Change Orders.
148. If retention fee is required by the Procuring Entity it should not exceed 5% of the contract price. Retention Fees
149. If the contract provides for both a performance security and retention fee, the total amount of both performance security and retention money should not exceed 15% of the contract sum. Use of both a performance security and retention money

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| 150. | Procuring Entities should endeavour to make payments promptly and in accordance with the terms and conditions of the contract. Any payment due for more than sixty days following submission and verification of an invoice shall be deemed a delayed payment. The contract document shall state the period of sixty days for delayed payments and specify the rate at which interest (being penalties for late payments) will be paid. | Interest on delayed payments. Section 65 (1-4) |
| 151. | Contracts shall clearly state that the proceeds of any claim arising from performance guarantees, advance payment guarantees and any insurance policies entered into by the contractor under the terms of the contract, shall be payable to the Procuring Entity. | Indemnification Requirements. |
| 152. | Contracts shall provide for liquidated damages or similar clauses in an appropriate amount to cover the cost of delays in the delivery of goods or failure to meet performance requirements, or non-completion of the works, which result in loss of revenues or other benefits to the Procuring Entity. | Liquidated Damages and Bonus Clauses. |
| 153. | The conditions of contract shall stipulate that failure on the part of the parties to perform their obligations under the contract will not be considered a default if such failure is due to <i>force majeure</i> as defined in the contract | Force Majeure |
| 154. | The conditions of contract shall contain provisions dealing with the applicable laws. | Applicable Law and Settlement of Disputes. |
| 155. | The forum for the settlement of disputes shall be the Lagos State Court of Arbitration in accordance with the prevailing Law.-. | |

SCHEDULE 1

Review and Approval of Procurement Decisions

	<p style="text-align: center;">Review of Procurement Decisions</p> <p style="text-align: center;">Review and Approval of Procurement Decision</p> <p>The Agency shall fulfil the review function. For this purpose, the Agency shall review the procurement arrangements proposed by the Procuring Entity, including contract packaging, applicable procedures, and the planning of the procurement process, for its conformity with the Regulations and the Procurement Law. The Procuring Entity shall promptly inform the Agency of any delay, or other changes in the implementation of the procurement plan and agree with the Agency on corrective measures.</p>	
	<p>Internal Procurement Review at the Procuring Entity.</p> <p>3) For all procurements below the prior review threshold, the Tenders Board of the Procuring Entity shall be the Approving Authority.</p> <p>4) The Procurement Office (PO) of a Procuring Entity prepares all procurement documents, including procurement plans, in collaboration with the project and budget units, and prepares requests for approvals by the Approving Authority.</p> <p>5) The Procurement Planning Committee (PCC), which is composed of representatives of various departments in a Procuring Entity, reviews procurement plans to ensure that they meet the needs and budget of the Procuring Entity and bids are on schedule with the needs assessment.</p>	
	<p>6) Above the Prior Review Thresholds. With respect to all contracts above the amount indicated in the approved threshold as issued by the Agency, the following will apply:</p> <p>7) In cases of prior review contracts where prequalification is used, the Procuring Entity shall, before prequalification submissions are invited, furnish Agency with the draft documents to be used, including the text of the invitation to prequalify, the prequalification questionnaire, and the evaluation methodology, together with a description of the advertising procedures to be followed, and shall introduce</p>	

	such modifications in said procedure and documents, as Agency shall direct.	
	8) Subsequently, the Procuring Entity shall evaluate the submissions of the Bidders in accordance with the standard evaluation form for prequalification; furnish to Agency for its comments the report evaluating the applications it received, the list of the recommended prequalified bidders, together with a statement of their qualifications and of the reasons for the exclusion of any applicant for prequalification. The Procuring Entity shall furnish this information to Agency before the Bidders are notified of the Procuring Entity's decision, and the Procuring Entity shall make such additions to, deletions from or modifications in the said list as Agency shall direct.	
	9) Before bids are invited , either for contracts with or without prequalification, the Procuring Entity shall furnish to Agency for its comments, draft bid documents, including the invitation to bid; instructions to Bidders, which also include the basis of bid evaluation and contract award; and the conditions of contract and specifications for supply of goods, or installation of equipment, or the civil works, as the case may be, together with a description of the advertising procedures to be followed for bidding when prequalification has not been used and shall make such modifications in said documents as Agency shall reasonably request. Any further modification shall require the Agency's approval before it is issued to the prospective Bidders.	
	10) For the evaluation of bids , the Procuring Entity shall use the Agency's Standard Bid Evaluation Report. 11) After bids have been received and evaluated, the Procuring Entity shall, before a final decision on the award is made, furnish to Agency in sufficient time for its review, a detailed report (prepared, if Agency shall so request, by experts acceptable to Agency), on the evaluation and comparison of the bids received, together with the recommendations for award, the draft contract submitted by the lowest evaluated responsive Bidders, and such other information as Agency shall reasonably request. The Report to Agency on the evaluation and comparison of bids shall be accompanied by the three lowest evaluated responsive bids. 12) When Agency determines that the intended award would be inconsistent with the bid document and the approved procurement procedures, it shall promptly inform the Procuring Entity and state the reasons for such determination. Otherwise, the Agency shall provide its approval instruments and authorize the Procuring Entity to proceed with the award	

	<p>and the signature of the contract. The Procuring Entity shall promptly confirm the award to the selected Bidders.</p> <p>13) If the approving authority is at a higher level than the Accounting Officer or Director General of a Procuring Entity, (for example, an Exco Committee on Special Projects), the Tenders Board will after Certificate of Compliance by the Agency, submit the proposed award to the Exco Committee on Special Projects and if approval is obtained, so inform the Bidders. If approval is not given, the Tenders Board shall discuss with the Agency what next steps to take. This procedure may lead to a cancellation of the procurement procedure. Because cancellations of procurement are very costly to the State and to the Bidders as well and may undermine the trust between the public and private sectors, cancellation of the procurement procedure shall only be considered in cases where there is absolute certainty about the critical flaws in the procurement process.</p>	
	<p>14) If the Procuring Entity requires an extension of bid validity to complete the process of evaluation, obtain necessary approvals and clearances and to make the award, it should seek Agency's prior approval for the extension of the bid validity period</p> <p>15) If the Procuring Entity receives protests or complaints from bidders about the evaluation, the Procuring Entity shall attend to the complaint in accordance with the procedures stated in Part 1, section 18 and 19 of this regulation.</p> <p>16) The terms and conditions of a contract shall not, without Agency's prior approval, materially differ from those on which bids were issued or prequalification of contractors was carried out.</p> <p>17) One certified copy of the Contract Agreement shall be furnished to the Agency promptly after its signing.</p> <p>18) The description and amount of the contract, together with the name and address of the successful bid, shall be subject to public disclosure by the Procuring Entity and Agency when the contract is signed and duly recorded by the Procuring Entity.</p>	
	<p>19) Below the Prior Review thresholds, In all cases below the prior review thresholds of the Agency, the Procurement Office shall prepare the procurement documents for submission to the Accounting Officer or the Tenders Board for approval.</p>	
	<p>20) Procurement Review. The Agency shall order a bi-annual post review by the Agency or independent consultants of at least 20% of all the contracts in a Procuring Entity that is not subject to prior review, being a representative sample of small</p>	

	<p>medium and large contracts, to verify if procurement procedures were carried out in accordance with the Regulations. The results of the Independent Procurement Reviews shall be shared with the Auditor General and the Accountant General.</p>	
	<p>21) Amendments, Modifications or Extensions. The Procuring Entity shall inform the Agency of the following during contract administration, giving the reasons:</p> <p>If an amendment to the contract, or change order, or extension would increase the original amount of the contract price by more than 15%, the AGENCY has the right to approve or reject such changes, and in the latter case, to propose alternative less costly modifications or recommend a reduction in the scope and size of the contract</p>	

SCHEDULE 2

Domestic Preference

Comments	Domestic Preferences	Procurement Law
	<p>1. Principles of Domestic Preference. A Procuring Entity may, and subject to the conditions below, grant a margin of preference in the evaluation of bids for goods and works launched under ICB. Such preferences may be granted as follows:</p> <p style="padding-left: 40px;">15% for bids from domestic suppliers for goods domestically produced;</p> <p style="padding-left: 40px;">7.5% for bids for works by domestic contractors;</p> <p>2. In such cases, advertising and the bid documents shall clearly indicate the preference to be granted, and the information required to establish the eligibility of a bid for such preference. The bid document shall describe the evaluation procedure described below.</p>	Section 62
	<p style="text-align: center;">Preference for Goods</p> <p>1. Where a margin of preference is granted for goods manufactured in Nigeria, responsive bids shall be classified in one of the following three groups:</p> <p style="padding-left: 40px;">Group A: bids from eligible domestic suppliers exclusively offering goods manufactured in Nigeria, if the eligible bidder establishes to the satisfaction of the Procuring Entity and AGENCY that (1) labour, raw material and components from within the country of the Procuring Entity will account for 30 percent or more of the EXW (ex-factory or off-the-shelf) price of the product offered, and (2) the production facility, in which those goods will be manufactured or assembled, has been engaged in manufacturing/assembling such goods at least since the time of bid submission.</p> <p style="padding-left: 40px;">Group B: All other bids offering goods manufactured in Nigeria.</p> <p style="padding-left: 40px;">Group C: Bids offering goods manufactured outside Nigeria that have already been or will be directly imported.</p> <p>2. The Procuring Entity will first review the bids to confirm the appropriateness of, and to modify as necessary, the bid group classification to which Bidders assigned their bids in preparing their Bid Forms and Price Schedules</p> <p>3. The prices quoted for goods in Group A and B shall include all duties and taxes paid or payable on the basic materials or components purchased in the domestic market or imported but shall exclude the sales and similar taxes on the finished product.</p>	

	<p>4. The prices quoted for goods in Group C shall be on CIP basis (place of destination which is plus the cost of inland transportation and insurance to the place of destination, but exclusive of customs duties and other import taxes already paid or to be paid.)</p> <p>5. The evaluation of bids is carried out in the following steps.</p> <p>(a) In the first step, all bids in each group are compared to determine the lowest responsive bid in each group. Such lowest evaluated bids are then compared with each other, and if, as a result of this comparison, a bid from Group A or B is the lowest, it will be selected for an award (i.e. no preference is needed.)</p> <p>(b) If as a result of the comparison under (a), the lowest evaluated bid is a bid from Group C, 15 percent of the evaluated CIP bid price of this bid from Group C is added to the price of this bid (for comparison only) and the resulting price is then further compared with the lowest evaluated bid from Group A (which includes a minimum of 30 percent of value-added locally). The lowest evaluated bid from this last comparison is then selected for award.</p>	
	<p>6. In the case of turnkey contracts for the supply of a number of distinct items of equipment as well as major installation and/or construction services, no margin of preference shall apply.</p>	
	<p style="text-align: center;">Preference for Domestic Contractors</p> <p>1. For the purpose of the application of preference for domestic contractors, such contractors must first provide the evidence that the contractor, either as an individual or as a group, qualifies with the following provisions:</p> <p>(a) it is incorporated or otherwise organized in Nigeria;</p> <p>(b) its principal place of business is located in Nigeria;</p> <p>(c) at least 51% of the equity is held by nationals of Nigeria and its assets are not controlled by a foreign firm or firms;</p> <p>(d) its chief officers are nationals of Nigeria; and</p> <p>(e) at least 50% of the persons who will perform services under the contract, whether employed directly or by a subcontractor, are nationals of Nigeria.</p> <p>2. Where a preference is granted for domestic contractors for works to be awarded on the basis of ICB, responsive bids shall be classified in one of the following two groups:</p> <p style="padding-left: 40px;"><u>Group A</u>: bids from eligible domestic contractors, which have established to the satisfaction of the</p>	

	<p style="text-align: center;">Procuring Entity and Agency that they are eligible for domestic preference.</p> <p style="text-align: center;"><u>Group B</u>: bids from other (foreign) contractors.</p> <p>3. For the purpose of evaluation and comparison of bids, after having compared and adjusted all bids where necessary, an amount equal to 7.5 percent of the bid amount of the lowest evaluated bid of group B will be added to that bid. If the bid from Group B is still the lowest evaluated responsive bid, this bid from Group B will be selected for award. If as a result of adding the 7.5 percent of the bid price of the lowest evaluated bid in Group B to that bid, the lowest evaluated responsive bid of Group A becomes the lowest, that bid from Group A will be selected for award.</p>	
	<p>3. In the case of turnkey contracts for the supply of a number of distinct items of equipment as well as major installation and/or construction services, no margin of preference shall apply.</p>	

SCHEDULE 3

Information to Bidders

Comments	Ref. Procurement Law
<p>Information for Bidders</p> <p>This Annex provides information to potential Bidders interested in participating in public procurement.</p> <p>Procuring Entity’s Role.</p> <p>The Procuring Entity is responsible for the procurement. It invites, receives, and evaluates bids and awards the contract. The Standard Bid Document and the terms and conditions of the standard contract between the Procuring Entity and the Supplier or Contractor define the rights and obligations of each contracting party.</p> <p>The Procuring Entity reviews the procurement procedures, documents, bid evaluations, award recommendations and the contract to ensure that the process is carried out in accordance with agreed procedures, and administers the contract during execution.</p> <p>Role of the Lagos State Public Procurement Agency (PPA).</p> <p>The Agency sets thresholds for the prior review of public procurement launched by Procuring Entities, and for contracts subject to “prior review” the Agency reviews the documents for their correctness before the Procuring Entity issues them, and issues “Certificate of Compliance for contract award”</p> <p>If at any time in the procurement process the Agency concludes that the agreed procedures were not followed in any material respect, or if the certification was done on the basis of incomplete, inaccurate or misleading information, the Board may declare mis-procurement.</p> <p>The Agency has the power to blacklist/debar any supplier, contractor, or service provider that contravenes the Procurement Act or the Regulations made pursuant to this Law, and to maintain a list of firms and persons that have been blacklisted/debarred from participating in public procurement, and to publish this list in the Procurement Journal and or every media it deems fit. Before a supplier, contractor, or service provider is blacklisted/debarred, the following procedures shall have been satisfied:</p> <ol style="list-style-type: none"> 1. A PE which considers that a bidder or contractor has breached any provision of this Law or his obligations in a contract and thereby caused loss to the government or damage to the procurement system should make a detailed report to Agency. 2. Agency should inform the bidder or contractor of the allegations and invite a response within 15 days. 3. Agency should consider the evidence in support of the allegation and the bidder/contractor’s response and, if it considers that the allegation has been substantiated it should inform the bidder/contractor of the action that it proposes to 	<p>Sections 15, 16, 26</p>

	<p>take and should ask the bidder/contractor if it wishes to make any further representation why this action should not be taken.</p> <ol style="list-style-type: none"> 4. Alternatively, the Agency may reject the allegation if it considers that it has not been substantiated and should inform the PE accordingly. 5. Agency may decide to hold a hearing to consider the allegation and the response thereto if it considers this to be appropriate. All concerned parties may be present at such a hearing and they may, if they wish, be accompanied by their legal representatives. 6. Any notice of debarment shall be published on the Agency website and in the Government Gazette and State Procurement Journal. All PEs shall have regard to the list of debarred bidders when determining eligibility to bid. <p>If the Agency determines the engagement in corrupt or fraudulent practices by representatives of the Procuring Entity or of the Bidders, the Agency may impose or cause to be imposed the applicable sanctions in the Procurement Law.</p> <p>The Agency publishes the details of major contracts in the Procurement Journal and on its website utilizing the OCDS format for contracts above N500Million.</p> <p>The Agency publishes Standard Bidding Documents (SBDs) for various types of procurement. The Regulations require that the Procuring Entities use these documents, with minimum changes as necessary to deal with project-specific aspects. The Procuring Entity also issues standard prequalification documents.</p> <p>Information on Bidding. For NCB, Invitation for bids may be obtained from the Procuring Entity’s Notice Board the State Tenders Journal, the website of the Procuring Entity and the Agency.</p> <p>For international competitive bidding, information can be obtained from the websites of the Agency and Procuring Entity, two national newspapers and one widely read international journal/platform. This is also the case for prequalification.</p> <p>Bidders’ Role</p> <p>Once a Bidder receives the prequalification or Bid solicitation document, the Bidder should study the documents carefully to decide if it can meet the technical, commercial and contractual conditions, and if so, proceed to prepare its Bid. Bidders should then critically review the documents to see if there are ambiguities, omissions, internal contradictions, or any feature of specifications or other conditions which are unclear or appear discriminatory or restrictive; if so, it should seek clarification from the Procuring Entity, in writing, within the time period specified in the bid documents.</p> <p>The criteria and methodology for the selection of the successful Bidders are outlined in the Bid solicitation documents, generally</p>	
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	<p>under Instructions to Bidders and in the section on Specifications. If these are not clear, clarification should be sought from the Procuring Entity. If a Bidder feels that any of the provisions in the bid document are inconsistent with the Regulations, it should also raise this with the Procuring Entity.</p> <p>It is the responsibility of Bidders to ensure the timely submission of fully responsive and compliant Bids, including all the supporting documents requested in the Bid solicitation document. Noncompliance with critical (technical and commercial) requirements will result in rejection of the Bid. If a Bidder wishes to propose deviations to a non-critical requirement, or propose an alternative solution, the Bidder should first quote the price for the fully compliant Bid and then separately indicate the adjustment in price that can be offered if the deviation or alternative solution is accepted. Once Bids are received and publicly opened, Bidders will not be required or permitted to change the price or substance of a Bid.</p> <p>Confidentiality. As stated in section 45 of the Public Procurement Agency Law 2015, the process of Bid evaluation shall be confidential until the award is notified to the successful Bidder. This is essential for the Procuring Entity reviewers to avoid corruption or breaching confidentiality, or even the perception of it. If during evaluation, a Bidder wishes to bring additional information to the notice of the Procuring Entity, it should do so in writing in accordance with the Bid Document.</p> <p>Complaints. The Procuring Entity is responsible for the selection and award procedure and Bidders should address themselves to the Procuring Entity for any queries, issues and possible complaints. In the case of a complaint regarding the procurement process for a specific bid, such complaint should first be introduced in writing to the Procuring Entity, in accordance with paragraph 16-19 of these Regulations</p> <p>Information on contract award. Information on contract award will be published in the procurement journal and on the websites of the Procuring Entities concerned and the website of the Agency where the OCDS format shall be utilized for contracts above N500Million. If, after notification of award, a Bidder wishes to ascertain the grounds on which its Bid was not selected, it should address its request to the Procuring Entity. If a discussion is arranged, only the Bidder's Bid can be discussed and not the Bids of competitors</p>	
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SCHEDULE 4

Procurement Filing

Comments		Procurement Law
	<ol style="list-style-type: none"> 1. The experience is that lack of an efficient filing system causes long and costly delays in the search for documents at critical moments when procurement issues arise or when procurement post reviews need to be done, complaints arise, Independent Post Reviews are needed by Agency, or procurement audits are required by the Auditor-General. 2. Procurement Entities shall maintain separate procurement files for individual contracts using standard procurement folders, 3. Below are some main elements of records of procurement proceedings 	Section 66
	<ul style="list-style-type: none"> • Copy of MDA’s procurement plan • Description of the goods, works or consulting services requested, usually in the invitation to bid (for goods and works or the request for proposals for consulting services) • Document prescribing the selection of the bidding method or consultant selection method and the reason for this. • Lists of Bidders who submitted bids or proposals, with names and addresses, usually obtained from the registration of bid or proposal submissions and from the minutes of opening of bids and proposals • Minutes of bid and proposal opening, with the recording of prices • Bid and proposal evaluation reports • List and summary of clarifications asked during prequalification, bid/proposal submission and evaluation (per bid and per proposal) • Records of formal rejection of bids or proposals and the grounds thereof • Records of procurement proceedings involving other than open competitive bidding, which did not result in a procurement contract and a statement on the likely reasons • Document by which it was decided to proceed with direct contracting and the reason for this. • Document whereby it was decided to proceed to limited bidding and to grant a margin of preference and the grounds for this • Record of any complaints received from Bidders and the responses sent • Copy of Certificate of compliance • Copy of Letter of Award 	

	<ul style="list-style-type: none">• Copy of Contact Agreement• Copies of Bid security, Advance Payment Guarantee and Performance Guarantee etc• Copies of certificate of completion/Store Received Voucher• Copy of payment voucher	
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SCHEDULE 5

STANDARD PROCUREMENT PROCESSING TIME

S/N	PROCUREMENT METHOD	DURATION
1.	International Competitive Bidding	9-11 Weeks
2.	Limited International Bidding	6-7 Weeks
3.	National Competitive Bidding	6-7 Weeks
4.	National Shopping	5 Weeks
5.	Direct Contracting	6 Weeks
6.	Direct Labour	4 Weeks.
7.	Quality & Cost Based Selection	17 Weeks
8.	Quality Based Selection	16 Weeks
9.	Single Source Selection	8 Weeks
10.	Least Cost Selection	14 Weeks
11.	Fixed Budget Selection	13 Weeks
12.	Individual Consultant Selection	6 Weeks
13.	Consultant Qualifications Selection	7 Weeks
14.	Framework Arrangement	7 Weeks
15.	Asset Disposal	5 Weeks

Section B -Consulting Services

Part I. General Provisions	
<p>156. These Regulations may be cited as the Lagos State Public Procurement Regulations for Consulting Services 2020.</p> <p>157. These Regulations for Consulting Services have been prepared by the Agency pursuant to the Public Procurement Agency Law 2015.</p> <p>These Regulations shall apply to all consulting services by all Procuring Entities except where a waiver is first obtained under the Law.</p> <p>158. These Regulations shall not apply to contracts for physical services such as exploratory drilling, surveys, aerial photography, transportation, installation and maintenance services or services which are provided by a contractor as a complement to goods and works contract. The Regulations for Goods and Works are applicable in such cases.</p>	Citation and application Section (9v)
<p>159. These Regulations supersede all existing procurement regulations, directives and guidelines.</p>	
<p>160. Nothing in these Regulations shall preclude the participation of government-owned agencies, universities or research centres from participating in contracts for the procurement of consulting services.</p>	Government agencies as consultants
<p>161. Persons who are civil/public servants may only participate in or be hired under consulting contracts, either as individuals or as members of a team of consultants, if they are</p> <p>(a) acting in their capacities as employees of a government-owned agency, university or research centre or</p> <p>(b) on leave of absence without pay; and</p> <p>(c) where their participation does not cause any conflict of interest situation.</p>	Hire of Government Officials.
<p>162. Where a firm (or the firm with which it is affiliated) combining the functions of consultant with those of contractor or is associated with a manufacturer or is a manufacturer offering services as a consultant and is short-listed by a Procuring Entity for participation in procurement, its proposal shall include relevant information on such relationship along with a statement to the effect that it shall limit its role to that of a consultant, and that neither the firm nor its associates/affiliates shall participate in the project in any other capacity.</p> <p>163. Consultants hired to prepare terms of reference for an assignment shall not be hired to carry out the assignment itself unless under justifiable circumstances, subject to the approval of the Agency.</p> <p>164. “Conflict of interest” shall also be deemed:</p> <p>where a person has a direct or indirect interest in or relationship with a Bidder that is or may be reasonably perceived to be unethical due to that person’s influence or ability to affect the procurement process;</p> <p>where a person receives or benefits by taking personal advantage of an opportunity that properly belongs to the Procuring Entity he represents or the Government;</p>	Conflict of Interest. Section 22 (24)

<p>(c) where a person for his personal benefit discloses to unauthorized persons confidential information belonging to: the Procuring Entity, the Government, or a Bidder;</p> <p>165. Where a supplier or contractor (or the firm with which it is affiliated) combines the functions of manufacturer or contractor with those of consultant;</p> <p>Provided that a conflict of interest shall not be inferred:</p> <ul style="list-style-type: none"> i. where a consultant’s bid is in combination with a supplier/manufacturer or contractor and its bid includes relevant information about such relationship along with a statement to the effect that it shall limit its role to that of consultant, and that neither the firm nor its associates and affiliates shall participate in the project in any other capacity; and or ii. Where two or more firms (suppliers, contractors and consultants) with disclosure to the Procuring Entity combine to bid for and/or execute a Turnkey or Design and Build contract. 	
<p>166 All procurements 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 an Annual Procurement Plan to be approved by the Accounting Officer.</p> <p>(i.) The procurement plan should:</p> <ul style="list-style-type: none"> (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) provide for grouping of contracts to obtain economies of scale and reduce procurement costs; and (e) be continuously updated as procurement progresses or new projects are developed in accordance with budgetary provisions. 	<p>Procurement Planning Section 27</p>
<p>167. Whenever it is established that there exists one or a combination of the following instances, i.e.:</p> <ul style="list-style-type: none"> a. If any part or the whole of a procurement has been carried out by procedures other than approved by the PPA; or b. if a contract was not included in the Procurement Plan; or c. if the terms and conditions of the contract are not satisfactory to PPA; or d. if the PPA comes to a determination that its certification was issued on the basis of false or misleading information; 	<p>Mis-procurement.</p>

<p>168The PPA shall declare a mis-procurement and withdraw any certification and/or such other approvals as hitherto given and shall initiate or apply such provisions of the Law as are relevant.</p>	
<p>169. Subject to thresholds as may be set from time to time by PPA, PPA shall review the process and conduct of all public procurement falling within the purview of the Law to ensure that the process from bid solicitation to contract award is carried out in accordance with the approved procedures. PPA will also carry out periodic post review of contracts below the prior review thresholds.</p>	<p>Review by PPA Section 15 and 16</p>
<p>170. Where a Bidder considers that its proposal has not been given appropriate attention and that it has or may suffer undue disadvantage due to a breach of an obligation in the selection procedure by a Procuring Entity with regards to the Law or these Regulations, the Bidder shall submit a complaint in writing not later than 15 working days after it becomes aware of the circumstances giving rise to the complaint or when it should have become aware of such circumstances, whichever is earlier.</p> <p>171. The Bidder shall first submit its complaint to the Accounting Officer of the Procuring Entity conducting the procurement in the issue. The Accounting Officer shall respond in writing to the Bidder within 15 working days stating what corrective action has or will be taken or if the complaint is rejected, stating the reasons for the rejection.</p> <p>172. If the Bidder considers that its complaint has not been equitably dealt with or is howsoever dissatisfied with the decision of the Accounting Officer, it shall submit an appeal to the PPA within 10 working days of its receipt of the Accounting Officer’s decision. The PPA shall review the case and issue a written declaration within 21 working days stating what corrective action has or will be taken or if the appeal is rejected, stating the reasons for the rejection.</p> <p>173. The following shall not be subject of a complaint or appeal:</p> <ul style="list-style-type: none"> A. Complaints about the choice of the selection method; B. Complaints about the <u>rejection of all</u> Consultant proposals by the Procuring Entity; C. Complaints about a proposal having been returned unopened because it was not received before the submission deadline; D. Complaints about a proposal having been rejected because it was submitted by a Consultant who was not shortlisted. 	<p>Complaints and Appeals Section 69 (1)</p>

<p>Part II - Principles and Methods of Consultants Selection</p>	
<p>174. Scope of Consulting Services. Procuring Entities may need consulting services for a variety of needs in Engineering, Architecture, Legal, Medicine, Economics and Finance, Management of projects and Procurement, or a combination thereof. Consulting services may be classified into the following categories:</p>	

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| <p>(a) Advisory or Counseling Services, including staffing, training and institution-building and specific advice on issues and projects.</p> <p>(b) Pre-Investment Studies, including identification, pre-feasibility and feasibility studies, including regional or sectoral planning, policy and investment priorities.</p> <p>(c) Engineering and Design Studies, to define the scope and design of a project, such as the preparation of drawings, specifications, detailed cost estimates and complete tender documents for the invitation of bids for construction and/or equipment procurement. In addition, these services may include assistance in the prequalification of contractors, analysis of bids and recommendations on the award of contracts, and drawing up final contract provisions with the selected contractor.</p> <p>(d) Implementation or Supervision Services, to ensure execution of the project in accordance with the terms and conditions of the contract, manage expenditure control, and provide certification of materials, quantities and invoices submitted by the contractors and suppliers. Such services may also include introducing modifications in the design or specifications, as necessary, upon prior agreement with the Procuring Entity or the owner of the project.</p> <p>(e) Project Management, where the Procuring Entity engages a Project Management Consultant to undertake the overall responsibility for planning, design, procurement, construction and commissioning of a project. The Project Management Consultant shall act as the Procuring Entity's executing arm in all matters connected with the implementation of a project. There is no uniform pattern according to which services under this category are rendered: sometimes a consultant may be engaged to act as the sole project consultant often with vast powers, or an independent consultant may be appointed under a project manager and be entrusted with the discharge of specific tasks.</p> <p>(f) In addition, the Procuring Entity may also need specialist services to assist it in the preparation and appraisal of projects, and the supervision and evaluation of on-going projects or to provide advice on technical matters.</p> | |
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<p>175. Consultants, to who these Regulations apply, may be grouped into one or a combination of the following:</p> <ul style="list-style-type: none"> (a) independent consulting firms (business and/or professional partnerships, private companies or corporations operating internationally or nationally, financial institutions and procurement agents); (b) autonomous/semi-autonomous government organizations, multilateral-agencies, or non-governmental organizations (NGOs); (c) universities/research institutes; (d) consulting firms forming part of, or otherwise affiliated to, or associated with, or owned by contractors or manufacturers; or consulting firms combining the functions of consultants with those of contractors/manufacturers (see paragraphs 160– 163 on conflicts of interest), and (e) individual consultant 	<p>Types of Consultants.</p>
<p>176. If the consulting assignment includes an important component for training or transfer of knowledge, the terms of reference shall indicate the objectives, nature, scope, and goals of the training program, including details on trainers and trainees, skills to be transferred, time frame, and monitoring and evaluation arrangements. The cost for the training program shall be included in the budget for the assignment and the consultant's contract.</p>	<p>Training and Transfer of Technology</p>
<p>177. Subject to such other regulations as may herein be prescribed by the Agency:</p> <ul style="list-style-type: none"> (a) Price shall not be the sole criteria for the selection of Consultants for the provision of consulting services; (b) The selection of Consultants shall be based on the numerically weighted assessment of the experience, performances, quality of personnel, price and methodology, such as to rank the proposals from highest to lowest in terms of their calculated ratings. The proposal with the highest calculated rating shall be the “Highest Rated Evaluated Proposal”. 	<p>Criteria for Selection of Consultants</p>
<p>178. Every Procuring Entity shall proceed to the selection of consulting firms by conducting activity in the following order:</p> <ul style="list-style-type: none"> (a) Preparation of the Terms of Reference. (b) Preparation of the cost estimate (budget). (c) Determination of the appropriate consultant selection method and the appropriate contract type for the assignment. (d) Preparation and publication of a Request for Expressions of Interest for the consulting assignment. 	<p>Procedure for Consultant Selection</p>

<ul style="list-style-type: none"> (e) After completion of the analysis of the Expressions of Interest, preparation of a short-list of qualified consultants. (f) Preparation of a Request for Proposals (RFP) with the selection criteria in the Specific Instructions, and the draft contract, in particular the Special Conditions of Contract, and issuing the package to the short-listed consultants. (g) Evaluation of the technical proposals (h) Public opening of the financial proposals (i) Evaluation of the financial proposals. (j) Selection of the best ranking proposal, followed by negotiations with the selected consultant, and (k) Awarding the contract to the selected consultant and signing it. 	
<p>179.</p> <ul style="list-style-type: none"> (1) The TOR shall define the work that the consultant is required to perform. (2) Every TOR shall indicate: <ul style="list-style-type: none"> (a) the scope and objective of the project; (b) the relevant background, including available studies, of the project and institutions concerned; (c) the type of services required and objectives sought; (d) the schedules of implementation and expected outputs (periodic reports, documents and end products); (e) the scope and nature of the transfer of technology, knowledge and training, if required; (f) the method of remuneration for the services; (g) the responsibilities of the Procuring Entity (client) and those of the consultant; (h) information on the Procuring Entity’s counterpart staff to be associated with the service and the facilities that will be provided to the consultant; (i) a description of the main terms and conditions of appointment; (j) the approximate number of staff-months that may be required; (k) an indication if “supplementary work” will be required (such as detailed engineering services after the feasibility study, or supervision of implementation after detailed engineering, when continuity is essential. If this possibility is part of the project, the Procuring Entity shall indicate clearly in the RFP the scope and requirements for this follow-up assignment. Shortlisted consultants shall duly respond to the criteria of this assignment, to arrive at an equitable and transparent selection during proposal evaluation and to enable the Procuring Entity to negotiate a suitable contract for the 	<p>The Terms of Reference (TOR).</p>

<p>follow-up assignment with the selected consultant when the situation arises.</p> <p>(l) All other important elements considered necessary to enable the consultant to submit a comprehensive proposal and estimate of the cost.</p> <p>180. TORs for assignments of a complex nature such as might require research and innovation to achieve the aims of the assignment may be issued stipulating the allowance for the consultants to propose suitable approaches and methodology to meet the aims of the procuring Entity.</p> <p>181. Where a Procuring Entity does not have the capacity to prepare the TORs for a complex assignment, it may engage a specialist with the requisite qualifications to prepare such a TOR in accordance with the Regulations for Individual Consultants (Section V).</p> <p>182. The TOR and any modifications agreed at the negotiation stage shall constitute the “Description of Services” in the contract between the consultant and the Procuring Entity.</p>	<p>TOR for Complex assignments</p> <p>Preparation of complex TORs</p> <p>Description of Services</p>
<p>183. The Procuring Entity shall estimate the cost of a proposed consulting assignment, including:</p> <p>(a) the estimated resources needed for the assignment (level and type of personnel, realistic staff time, physical outputs and logistical support, if needed (such as vehicles, office supplies and computer equipment));</p> <p>(b) cost estimates covering the technical requirements of the TOR to ensure that the financial commitments of the consultants fully reflect their technical proposals, which - if inaccurate - could result in deficient proposal evaluation and contract award, and unsatisfactory contract implementation;</p> <p>(c) costs divided into two separate categories: (i) remuneration (fees) and (ii) reimbursable cost items (travel and transport, communications, production of reports, office rent, local staff salaries, local taxes, etc.);</p> <p>(d) local taxes (indirect and direct) and customs duties on imported equipment and supplies, which shall be identified separately from the base cost.</p>	<p>Cost Estimate (Budget).</p>

<p>procurement plan, the approved expenditure, and the schedule for implementation of the project.</p> <p>187. The selection methods, procedures and contract award shall be subject to the prior review thresholds as may be set from time to time by the Board.</p>	<p>Prior review by PPA. Section 16 (a)</p>
<p>188. In cases of State security-related assignments, selection of consultants may be subject to such procedures and considerations as prescribed by the Board.</p>	
<p>189. The application of selection methods, procedures and the award of consulting contracts shall be subject to monetary thresholds set by the Board from time to time.</p>	<p>Thresholds for the Selection Method.</p>
<p>190. For all selection methods (except CQ and SSS, when only a simplified RFP is necessary), the Procuring Entity shall prepare an RFP, using the Agency's Standard Request for Proposals and contract documents.</p>	<p>Request for Proposals (RFP).</p>
<p>191. The RFP shall comprise a complete set of documents, including:</p> <ul style="list-style-type: none"> (a) the Letter of Invitation; (b) a standard section comprising the Instructions to Consultants (ITC) on how and when to submit their proposals, complemented by the Specific Instructions elaborating on the standard instructions and indicating the specific requirements for the proposed assignment, including the evaluation criteria; (c) Technical Forms to detail the Consultants' technical proposal and qualifications; (d) Financial Forms, to detail the consultants' financial proposal and qualifications; (e) the TOR, and (f) the draft Contract, including the General Conditions of Contract and the Special Conditions of Contract. <p>192. Modifications to the ITC of the RFP shall only be introduced through the Specific Instructions. If the selection is subject to prior review, the Procuring Entity shall submit the complete set of documents including the RFP and the draft contract to the PPA for approval before it is issued, and PPA may request the Procuring Entity to make the necessary modifications to ensure that the documents are in conformity with the law or these Regulations.</p>	<p>Contents of the RFP.</p> <p>Modifications to RFP</p>

<p>193. For all selection methods, including CQS and SSS, the consultant shall be required to submit both technical and financial proposals.</p>																													
<p>194. The procuring entity shall base its selection of consultants on the following factors:</p> <ul style="list-style-type: none"> (a) the consultant’s professional qualifications, reliability, professional and managerial competence, and relevant experience for the assignment; (b) the effectiveness of the proposal in meeting the needs of the Procuring Entity (thoroughness of the consultant’s methodology, approach, and work plan, including its comments on the TOR); (c) the qualifications and expertise of the key staff proposed for the assignment and whether the majority of such staff are drawn from the permanent staff of the consultant; (d) the price of the proposal; (e) for shortlists including international consultants: the consideration given by international consultants to the inclusion of domestic consultants in the consulting assignment. 	<p>Selection Criteria. Section 54</p>																												
<p>195. The Procuring Entity shall for all selection methods subject to competition (that is except for CQS and SSS), grade the technical criteria on a scale of 0 to 100 points. This grading scale is detailed in the Specific Instructions of the RFP. The points attributed to each evaluation criteria are a function of the importance of each criterion for the assignment and may be adjusted as necessary.</p> <p>196. As an example, the following range shall be used for domestic short-lists:</p> <table border="1" data-bbox="188 1442 1061 1966"> <thead> <tr> <th></th> <th></th> <th colspan="2">Example</th> </tr> <tr> <th>Grading Scale of Technical Quality</th> <th>Range</th> <th>1</th> <th>2</th> </tr> </thead> <tbody> <tr> <td>Consultants qualifications and experience relevant to the assignment</td> <td>5-10 points</td> <td>10</td> <td>10</td> </tr> <tr> <td>Methodology, Approach (understanding of the TOR), Work Plan,</td> <td>20-50 points</td> <td>50</td> <td>30</td> </tr> <tr> <td>Qualifications of key personnel</td> <td>30-60 points</td> <td>30</td> <td>55</td> </tr> <tr> <td>Transfer of Technology (training) (if asked for in the RFP)</td> <td>0-10 points</td> <td>10</td> <td>5</td> </tr> <tr> <td>Total (not to exceed)</td> <td>100 points</td> <td>100</td> <td>100</td> </tr> </tbody> </table> <p>For shortlists involving international consultants, the scale might be as follows:</p>			Example		Grading Scale of Technical Quality	Range	1	2	Consultants qualifications and experience relevant to the assignment	5-10 points	10	10	Methodology, Approach (understanding of the TOR), Work Plan,	20-50 points	50	30	Qualifications of key personnel	30-60 points	30	55	Transfer of Technology (training) (if asked for in the RFP)	0-10 points	10	5	Total (not to exceed)	100 points	100	100	<p>Setting the Technical Selection Criteria in the RFP</p>
		Example																											
Grading Scale of Technical Quality	Range	1	2																										
Consultants qualifications and experience relevant to the assignment	5-10 points	10	10																										
Methodology, Approach (understanding of the TOR), Work Plan,	20-50 points	50	30																										
Qualifications of key personnel	30-60 points	30	55																										
Transfer of Technology (training) (if asked for in the RFP)	0-10 points	10	5																										
Total (not to exceed)	100 points	100	100																										

Grading Scale of Technical Quality	Range	Example	
		1	2
Consultants qualifications and experience relevant to the assignment	5-10 points	05	05
Methodology, Approach (understanding of the TOR), Work Plan,	20-50 points	50	30
Qualifications of key personnel	30-60 points	30	45
Transfer of Technology (training) (if asked for in the RFP)	0-10 points	05	10
Use of Domestic Consultants	0-10 points	10	10
Total (not to exceed)	100 points	100	100

197. The allocation of points to the above factors will differ for the type of assignment. For assignments of detailed engineering and design (example 1), greater weight shall be given to the consultant's proven experience and past performance, and relatively lesser weight shall be given to key staff because such assignments are mostly carried out at a consultant's home office. For an assignment for construction supervision and implementation services (example 2), the quality of key staff is much more important, since it has a direct bearing on supervision and management of the works, quality of performance and quality control, as well as the transfer of technology/know-how.

198. The Procuring Entity's Specific Instructions in the RFP may divide the above main criteria into sub-criteria, each of which shall be awarded sub-points, also weighed on a scale of 0 - 100 (e.g. for "methodology and work plan", the sub-criteria maybe "innovation" and "relevance of detail".) However, the number of sub-criteria should be kept to a minimum (generally not more than three) to avoid that the evaluation becomes too mechanical and a "numbers game". Sub-criteria are also customary for the proposed key staff (e.g. general qualifications and experience, adequacy for the assignment, leadership role in the area of the assignment, knowledge of the region, language proficiency, etc.).

199. When preparing the RFP, the Procuring Entity shall select the type of contract to be used for the consulting assignment. The Procuring Entity shall select the most appropriate one of the standard form of contracts for consultants' services as prepared by the PPA.

200. These standard forms of contracts shall be as contained in Annex 2:

- (a) Lump-Sum Contracts for complex assignments
- (b) Lump-Sum Contracts for simple assignments
- (c) Time-Based Contracts for complex assignments
- (d) Time-Based Contracts for simple assignments
- (e) Lump-sum and time-based contracts for individual consultants

201. The Procuring Entity shall advertise on the Agency's website requests for "expressions of interest" (EoI) from interested firms in at

Types of Consulting Contracts.

Request for Expressions of

<p>least two widely distributed publications, the procurement journal, and on the Procuring Entity’s website.</p> <p>202. To enable the Procuring Entity to evaluate the EoI submissions and draw up a shortlist, the Request for EoIs shall list explicit criteria of the assignment including:</p> <ul style="list-style-type: none"> (a) A statement of the subject and main elements of the assignment and the timeframe for the conduct of the assignment; (b) stipulations for consultants to provide details (technical and financial) of the core business of their organization and years of experience, relevant experience in assignments of similar nature, references that can attest to successful completion, key personnel available for the assignment, and any other information that may show the consultant's ability to carry out the assignment satisfactorily; (c) the name, telephone, fax number, website, e-mail address and physical address of the Procuring Entity and the responsible contact person; (d) Stating the time for response to the EoI (not less than 14 days from publication). 	<p>Interest to be advertised Sections 47</p>
<p>203. The Procuring Entity shall analyze the Expressions of Interest and the responses of the consultants, dividing the responses into ‘responsive’ and ‘non-responsive’.</p> <p>204. The ‘responsive’ EoIs shall be those which meet or are nearest to meeting the minimum level of experience or capacity expected of consultants by the Procuring Entity. A short-list of the best ranking candidates is then drawn up from the list of responsive EoIs such that there are 6 candidates.</p> <p>205. With respect to Contracts estimated to cost less than the approved thresholds set by the Board, the shortlist can be made of only national consultants if there are enough qualified firms in that assignment</p>	<p>Analysis of the EoI and Short-Listing of Consultants.</p>
<p>206. A shortlist shall be drawn up only after the deadline for the submissions of EoIs. Once the Procuring Entity has drawn up a shortlist no further application from other firms or individuals shall be considered and the Procuring Entity shall not add or delete names without PPA’s prior approval.</p>	<p>Finality of Shortlists</p>
<p>207. Consulting Firms may enter into associations with one or more other firms to enhance their technical capacity. Such associations may be either for the long term or for a specific assignment.</p> <p>208. Such associations may take different forms and constitute :</p>	<p>Joint ventures</p>

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| <p>209. (a) a <i>Joint Venture</i>, whereby all members are jointly and severally liable for the entire contract, and all members are required to sign the contract with the client; or</p> <p>210. (b) a <i>Subcontracting Arrangement</i>, whereby the lead-firm assumes complete responsibility for and coordination of the intellectual services and signs the contract with the client, while the subcontractor only executes part of the contract assigned to it under specific terms of reference, and for this purpose signs a subcontract with the lead-firm.</p> <p>211. After the shortlist is finalized and the RFP is issued, any form of joint venture, other association, or subcontracting among the short-listed consultants, as well as with non-short-listed consultants, shall be allowed only with the approval of the Procuring Entity and must be communicated in writing to the Procuring Entity at least 14 days before the Proposal submission date and in accordance with the provisions of the RFP.</p> <p>212. Non-domestic consulting firms may associate with one or more domestic consulting firms. However, no Procuring Entity may stipulate conditions which require mandatory joint ventures or other forms of associations between <i>specific</i> consulting firms. Procuring entities intending joint ventures between non-domestic and domestic consulting firms should include a statement to that effect in the EoI for the assignment.</p> | |
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<p>213. The Procuring Entity shall ensure that the ‘Letter of Invitation’ (LoI) includes the following:</p> <ul style="list-style-type: none"> (a) the subject of the assignment; (b) a statement that the financing of the assignment is provided for in the budget of the Procurement Entity; (c) a statement that the LOI is a formal invitation to submit proposals to undertake the assignment; (d) a statement that a consulting firm shall be selected on a competitive basis; (e) the selection method; (f) the details of the Procuring Entity; (g) the names of the short-listed consultants; (h) the list of the documents attached (Instructions to Consultants, TOR, Standard Forms for the technical and financial proposals, and the draft Standard Contract) on the basis of which the proposals shall be formulated; (i) an indication if it is a fixed price consultancy or if the duration of the assignment may be longer than 18 months, and will be subject to price adjustment; (j) the deadline for proposal submission; (k) if the submission procedure will include a pre-proposal meeting; (l) a statement that the invited consultants are requested to respond immediately to the Procuring Entity that they are interested to submit a proposal for the assignment or that they decline. 	<p>Letter of Invitation (LoI) in the RFP. Section 49</p>
<p>214. All RFPs shall be accompanied by ‘Instructions to Consultants’ (ITC¹) and associated Specific Instructions which shall:</p> <ul style="list-style-type: none"> (a) define the procedure, place and period for proposal submission (between 15-90 days depending on complexity); (b) indicate the proposal validity period (normally 60-120 calendar days). It is important to define a realistic validity period to avoid that at negotiations the consultant substitutes key staff proposed and evaluated; (c) provide the details needed for responsive proposals, including the evaluation criteria and respective weights of technical and financial proposals; (d) state the minimum technical quality passing score; (e) provide information on the eligibility and association of consulting firms; 	<p>Instructions to Short-listed Consultants (ITC) in the RFP. Section 53</p>

¹ Details of the Instructions are given in Annex 3.

<ul style="list-style-type: none"> (f) indicate the language of communication; (g) schedule visits to the project site if required; (h) give the date and time of a pre-proposal meeting (in the case of a complex assignment requiring clarifications on site), and (i) explain the procedures for the proposal opening and evaluation, contract negotiations and contract award, and state clearly that the technical proposal should not contain any information on the financial proposal. 	
<p>215. Procuring Entities shall adopt the Standard Contracts for consulting services provided by the Agency</p> <p>216. The draft contract for each assignment shall be included in the RFP as an annexure</p> <p>217. The Standard Contracts shall include the following Clauses:</p> <ul style="list-style-type: none"> (a) General Conditions of Contract between the Procurement Entity and the Consultant, which comprise the standard contract provisions (b) Special Conditions of Contract, indicating the requirements specific to the implementation of the assignment. Modifications to the General Conditions of Contract shall only be introduced through the Special Conditions of Contract. Different forms of contract are explained in schedule2. In the rare circumstances that the Standard Contract is not applicable, Procuring Entities may use other forms of contract subject to prior approval by the PPA. (c) Contract duration: if a contract is expected to exceed 18 months, a price adjustment formula shall be included in the Special Conditions of contract to adjust the remuneration for foreign and/or local inflation. If a price adjustment is indicated in the Specific Instructions of the ITC, it shall not be part of the financial evaluation. (d) Clear payment provisions, which shall be agreed upon during contract negotiations. Payments may be on a lump sum basis (lump-sum contracts based on outputs) or on a monthly basis (“time-based” contracts based on actual time spent but limited to a ceiling, which is the contract price). <ul style="list-style-type: none"> (i) Design and Detailed Engineering shall normally be remunerated on a lump sum basis. (ii) Supervision services are time-based contracts. (e) Mobilization fees: Such advances shall not exceed 40% of the contract value for national consultants and 20% for foreign consultants. The mechanism for the recovery of the advance shall be clearly spelt out in the contract. 	<p style="text-align: center;">Draft Contract to be included in RFP</p> <p style="text-align: center;">Contents of the Standard Contract</p>
<p>218. Except in the case of the Fixed Budget selection method, the RFP does not provide the estimated budget cost, only the estimated</p>	<p style="text-align: center;">Cost estimate of the assignment</p>

<p>input of professional staff time. However, the Procuring Entity shall always prepare its own detailed cost estimate for the assignment, taking into account the estimated staff time and prevailing market rates for consultants, and the likely reimbursable costs such as travel, per diem, office rent, communication costs, computer costs, report production, printing and dissemination, and insurance. It will need this cost estimate to compare with the financial proposals. Consultants shall be free to submit their own estimates.</p>	
<p>219. Procuring entities may reject all proposals submitted by consultants on the grounds of being non-responsive if:</p> <p>(a) None of the proposals meets the objectives of the TOR. In this case, the Procuring Entity shall improve the clarity of the TOR and issue new requests for proposals to the same firms or to a newly drawn-up shortlist.</p> <p>(b) All proposals are below the minimum qualifying mark for technical quality. In this case, the EoI shall be re-advertised and a new shortlist of consultants other than had earlier responded shall be compiled.</p> <p>(c) All financial proposals substantially exceed the budget estimate. In such cases, the Procuring Entities increase the budget if it is determined that the costs estimates were too low, or scale down the scope of the services requested, or cancel the assignment altogether if it is not uneconomical to continue.</p> <p>220. In all cases where all proposals are subject to rejection, the Procuring Entity shall first obtain approval of the PPA and thereafter inform the competing consultants accordingly.</p>	<p>Procedure for the Rejection of Proposals.</p>
<p>221. If only one short-listed firm has responded or remains as the only responsive firm among the proposals received, it may still be considered that a competitive procedure has taken place. The Procuring Entity may evaluate the sole consultant’s proposals, and, if satisfactory, invite it for contract negotiations, or continue with the one remaining candidate to negotiations and contract award.</p>	<p>Only one Proposal Received.</p>
<p>222. If no responses are received within the proposal submission period stipulated in the RFP, the Procuring Entity shall review the possible causes, and reformulate the RFP, (if limiting) including the estimated staff-time, or draw up a new shortlist, or both, and recommence the procedure. If the procedure is subject to prior review, the Procuring Entity shall do so after certification by the PPA. If, after a second call, there is still no response, the Procuring Entity shall seek the Agency’s approval for restricted procedures to select a qualified firm, based on the original RFP (if not limiting) and submission of satisfactory technical and financial proposals.</p>	<p>Insufficient Competition.</p>
<p>Part IV - Procedures for proposal preparation, submission, opening, evaluation, negotiation, award and contract signature with firms</p>	

<p>223. Procuring Entities shall allow sufficient time for consultants to submit their proposals in response to the RFP. Depending on the complexity of the assignment, the period for submission shall not be less than 15 and not more than 90 calendar days. Any proposal received after the closing time for the submission of proposals shall be returned unopened.</p>	<p>Preparation and Submission of the Proposals Section 52(1)- (5)</p>
<p>224. Up to 7 days before the proposal submission date, shortlisted candidates may request clarifications in writing (facsimile or electronic mail) on any of the RFP documents. The Procuring Entity shall respond to such requests, without identifying the source, within 3 working days by a similar method, and simultaneously copy the clarification to the shortlisted consultants.</p> <p>225. Procuring Entities shall refrain from communicating with prospective candidates after the publication of the RFP other than as provided for in the Regulations under this paragraph or in the event of pre-proposal meetings.</p>	<p>Requests for Clarifications by short-listed candidates before submission. Section 52 (1)</p>
<p>226. For complex consulting contracts, a pre-proposal meeting may be arranged whereby potential candidate consultants meet with the representatives of the Procuring Entity to seek clarifications. Minutes of the meeting shall be provided to all prospective candidates (including those who did not attend) and be duly recorded in the records of the Procuring Entity. Any additional information, clarification, correction of errors or modifications of the RFP shall be sent at the same time to each shortlisted candidate in sufficient time before the proposal submission deadline to enable candidates to take appropriate action. If necessary, the Procuring Entity shall extend the submission deadline.</p>	<p>Pre-proposal Meeting. Section 52 (4)</p>
<p>227. If needed or for purposes of the Procuring Entity, the Procuring Entity may modify the RFP by issuing an addendum up to 7 days before the submission deadline. The Procuring Entity may extend the deadline for proposal submission, and if the procedure is subject to prior review by the PPA, do so with the prior concurrence of the PPA.</p>	<p>Modification of the RFP by the Procuring Entity. Section 52 (2)</p>
<p>228. A candidate may modify or withdraw its proposal prior to the submission deadline in accordance with the provisions in the RFP.</p>	<p>Proposal modification or withdrawal by the short listed candidate. Section 40 (4)</p>
<p>229. Domestic consultants shall express their financial proposals in Naira. If international consultants are on the shortlist, they may express their foreign cost in a convertible international currency; however local costs shall be quoted in Naira. For purposes of the evaluation and comparison of costs, the RFP shall state that the source for the conversion of price proposals to Naira shall be the medium exchange rate of the Central Bank of Nigeria on the date of proposal submission. The RFP shall indicate that all payments shall be made in Naira.</p>	<p>Currency. Section 51 (1)</p>
<p>230. Consultants shall be required to submit proposals valid for a period specified in the RFP, sufficient to enable the Procuring Entity to complete the comparison and evaluation of proposals, obtain the necessary approvals from PPA if required so that the award of contract can be effected within that period. The validity period should normally</p>	<p>Validity of Proposals. Section 53 (1)</p>

<p>be from a minimum of 60 to 120 days from proposal submission through evaluation, contract award and signature, depending on the complexity of the proposal.</p>	
<p>231. If an extension of proposal validity becomes necessary due to unforeseen difficulties in the proposal evaluation and award process, the Procuring Entity shall request the candidates in writing for their agreement before the expiration of the validity period stated in the Request for Proposals. The extension shall be for the minimum period required to complete the evaluation, obtain the necessary approvals and award the contract. If additional extensions are needed, prior approval of the Agency shall be requested stating the reasons for the requested extension.</p> <p>232. Whenever an extension of the proposal validity period is requested, candidates shall not be asked or permitted to change the quoted (base) price or other conditions of their proposal.</p>	<p>Extension of Validity of Tenders.</p>
<p>233. The procedures for submission of proposals are described in the Standard RFP. Proposals shall be (a) properly identified by the candidates in order not to be mistaken with proposals for other assignments; (b) signed by a legal person who is authorized to bind the firm, and (c) technical and financial bids shall be delivered simultaneously at the location indicated in the RFP, in two separate sealed envelopes, enclosed inside a third sealed, unmarked envelope, and not later than at the stipulated time.</p> <p>234. No amendment to either proposal shall be admitted thereafter.</p> <p>235. If an extension of the submission date becomes necessary the Procuring Entity shall notify all Consultants in writing at the same time.</p> <p>236. The Procuring Entity shall register the proposals received, issue a receipt for them. It will place them in a tamper-proof location. Proposals received after the deadline shall be returned unopened to the consultant. Proposal opening shall start immediately following proposal submission or if held at a different location, only with the difference of time needed to transport the proposals to the opening location.</p>	<p>Procedures for Proposal Submission. Section 53</p>
<p>237. No later than two weeks before the proposal submission date, the Procuring Entity shall constitute an evaluation committee of at least 5 experts in the subject of the assignment, headed by the Procurement Officer as the Chairman, to carry out the technical and financial proposal evaluation. The Procuring Entity shall ensure that the members of the evaluation committee possess the necessary professional competence to evaluate the proposals, and include the person who drafted the TOR and the selection criteria for the RFP. The technical and evaluation committees may consist of the same members or be supplemented by professionals specialized in each field of evaluation. At least a week before the evaluation starts, the team members shall meet to familiarize themselves with the background documentation and the evaluation procedures. If the Procuring Entity does not possess the qualified evaluation staff it should consider appointing independent experts from other Procuring Entities or</p>	<p>Appointment of Evaluation Committee(s).</p>

<p>hire individual consultants. For the purpose of evaluation, the Procuring Entity shall use PPA’s Standard Consultants Proposal Evaluation Report.</p>	
<p>238. The Procuring Entity shall ensure that throughout the evaluation procedure, information on evaluation results and recommendations shall not be disclosed to anyone but those officially concerned until the successful consultant is notified of the contract award.</p>	<p>Confidentiality of the Evaluation and Selection Procedure. Section 56 (4)</p>
<p>239. Immediately following the deadline of the submission of proposals, the Procuring Entity shall first open the technical proposals. The Procuring Entity shall prepare minutes of the technical proposal opening for its record and sends a copy to the Agency. The Procuring Entity shall ensure that the financial proposals remain sealed and deposited in a safe box with the Procuring Entity’s designated authority and that no one has access to the financial proposals until their public opening. The proposal opening procedure is the same for QCBS, LCS, FBS, and for QBS only as far as the technical proposals are concerned.</p>	<p>Proposal Opening. Section 53(4) (5)</p>
<p>A. Evaluation Procedure for the Quality and Cost Based Selection (QCBS).</p>	
<p>240. The technical evaluation committee shall first carry out a preliminary evaluation to determine if the technical proposals are substantially responsive i.e. by assuring that : (a) the technical proposal has been properly signed, responds to the terms of reference, responds to all components of the TOR, the CVs of key staff included with the original copy have been signed by the individuals and are initialled by the consulting firm, and lastly that the technical proposal is generally in good order.</p> <p>241. If upon opening a technical proposal a major deviation is found, the technical proposal concerned will not be further evaluated and shall be marked ‘rejected’ and a statement to that effect made in the technical evaluation report. A major deviation would have occurred if any one or more of the following situations arise, i.e. (a) if the original copy of proposal has not been signed; (b) the CVs in the original copy have not been signed by the firm and the individual; (c) the proposal does not respond to the Terms of Reference.</p>	<p>Preliminary Examination.</p> <p>Rejection of grounds of major deviation</p>
<p>242. If a Procuring Entity deems it necessary to seek clarifications from a candidate after technical proposal opening, candidates shall not be asked to alter their proposals or to change the substance of their technical proposals. A Procuring Entity may need to ask clarifications, for example in the event that some pages of supporting information (CVs) are not initialled, if required in the RFP, or if the candidate has not sent the required number of copies or omitted a form. Requests for clarification and the candidates’ responses shall be made in writing and any discrepancies noted shall be recorded in the technical evaluation report.</p>	<p>Procuring Entity may request clarifications after submission of proposals.</p>

<p>243. The evaluation committee’s team leader prepares a table in the form of a matrix with rows representing the technical selection criteria to measure the strengths and weaknesses of each technical proposal using the points attributed to each criterion in the RFP. The committee members then review the firm’s relevant experience for the assignment, the firm’s proficiency supported by written references of successful completion of similar assignments, the proposed methodology and work plan, the qualifications and proficiency key staff and their curricula vitae, which it may wish to verify for accuracy and completeness. Each committee member shall award scores to each technical criterion stated in the matrix in accordance with the points given in the RFP, rank the candidate’s technical proposal, and initial the individual evaluation sheet. Then the committee as a whole shall review the individual scores, and agree on the ranking of each candidate in accordance with the scores obtained. Major differences in the individual scores should be discussed and ironed out. The committee team leader then calculates the average of the individual scores for each criterion and prepares the combined technical evaluation and ranking sheet. After verification by the committee members, each member initials the combined evaluation sheet.</p>	<p>Detailed technical evaluation</p>
<p>244. The committee shall prepare a Technical Evaluation Report describing the evaluation procedure and attach the minutes of the opening of the technical proposals, as well as the individual and combined evaluation sheets. The Report is submitted to the designated authority of the Procuring Entity for approval. If the assignment is subject to a monetary threshold, the Report shall be submitted to the Agency for approval. After approval of the Technical Evaluation Report by the relevant Approving Authority, the technical ratings cannot be changed.</p>	<p>Technical Evaluation Report.</p>
<p>245. Only the proposals of the candidates that pass the minimum technical qualifying mark will move on to the financial evaluation. All proposals falling below the qualifying mark or were not responsive shall be eliminated and not given further consideration.</p> <p>246. Not later than 14 days after obtaining the approval of the technical evaluation report, the Procuring Entity shall advise the unsuccessful candidates in writing of the decision and simultaneously return their financial proposals unopened.</p>	<p>Proposals not meeting the qualifying technical mark.</p> <p>Financial proposals of unsuccessful technical proposals</p>
<p>247. The opening of the financial proposals shall be held not later than 14 days after the technical evaluation report is approved by the Tenders Board or the receipt of the PPA’s Certificate of Compliance. The Procuring Entity shall advise the successful consultants of the date and venue of the public opening of the financial proposals and invite them to attend or send representatives.</p>	<p>Invitation for public opening of the financial proposals.</p>

<p>248. The Procuring Entity shall appoint the same or a different evaluation committee with qualified professionals to carry out the evaluation of the financial proposals.</p> <p>249. The Procuring Entity shall proceed to the public opening of the financial proposals by:</p> <ul style="list-style-type: none"> (a) allowing participating consultants to verify that the sealed financial envelopes have not been tampered with; (b) announcing the technical quality scores of the remaining candidates, and enunciates the price of each financial proposal; (c) Ensuring that attendees representing the candidates sign the register of public opening. 	<p>Opening of the Financial Proposals.</p>
<p>250. The proceedings of the financial opening are recorded in minutes, which shall be sent to the candidates and published on the Procuring Entity’s website and the Procurement Journal. A copy is sent to the PPA for information, and later on, attached to the Financial Evaluation Report.</p> <p>251. The financial evaluation committee shall first verify if the proposals contain the required financial forms and if the financial proposal forms are signed. If the submission form is not present or has not been signed, the proposal shall be rejected.</p>	<p>Minutes Section 56 (5)</p> <p>Preliminary examination of the financial</p>
<p>252. The evaluation committee then proceeds to verify:</p> <ul style="list-style-type: none"> (a) If the proposals contain any arithmetical errors, corrects them, and conveys them to the candidates concerned for review and agreement. If a candidate does not accept the correction, its proposal shall be rejected; (b) That the financial strength of the firm and its working capital are adequate to carry out the assignment. For the purpose of comparing the cost of the proposals, corrected as the case may be, the costs shall be converted into Naira at the medium exchange rate quoted by the Central Bank of Nigeria at the date indicated in the Specific Instructions of the RFP. (c) That the consultants’ proposed payment terms, required mobilization fee and other terms agree to the draft Special Conditions of Contract included in the RFP. 	<p>Detailed Evaluation of financial proposals</p>
<p>253. Financial proposals shall generally consist of two components: (a) the consultants’ fees, and (b) its reimbursable expenses such as travel, office renting and supplies, translation, report printing and secretarial services. Where the RFP requires that the Consultants separately identify any foreign or local taxes (indirect and direct) and customs duties on imported equipment and supplies, these costs shall not be considered in the financial evaluation because they are difficult to</p>	<p>Local Taxes</p>

<p>specify, may be different from consultant to consultant, and would, therefore, distort the comparability of the proposals.</p>	
<p>254. The committee shall verify that the financial proposal covers all elements of the technical proposal (in particular the staff time needed to bring the assignment to a successful completion) particularly to ensure that the financial proposal adequately reflects the technical commitments and output of the consultant.</p> <p>258. If some technical inputs have no cost or the staff time needed to carry out the assignment is clearly underestimated to favour the proposal's financial rating, the committee shall adjust the cost of the proposal, using the cost elements of the proposal concerned or an average cost of the same elements of other proposals. Such adjustments, as well as any arithmetical corrections, shall be explained in the committee's financial evaluation report. If training and transfer of technology are included in the TOR, the committee shall verify if sufficient funds have been budgeted in the proposals.</p>	<p>Financial proposals to cover technical proposals</p>
<p>255. If a shortlist consists of domestic and international consultants, a Procuring Entity may apply a margin of preference to the financial proposal of a domestic consultant in accordance with PPA Regulations, provided the allowance for such margin of preference was indicated in the RFP.</p>	<p>Margin of preference for domestic consultants. Section 54 (2),</p>
<p>The lowest evaluated financial proposal is given a score of 100 and the scores of the other proposals are calculated by dividing the lowest cost proposal by the price of the respective other proposals, as follows:</p> <p>256. $Sf = 100 \times Fm/F$, in which <i>Sf</i> is the financial score, <i>Fm</i> is the lowest price and <i>F</i> the price of the proposal under consideration. The evaluation committee finalizes its ranking of the candidates' financial proposals accordingly and describes its financial evaluation procedure in its Financial Evaluation Report.</p>	<p>Financial Scores and Ranking</p>
<p>On the basis of the technical and financial evaluation reports, the evaluation committee shall determine the best-ranking candidate by applying the weights attributed to price versus quality as follows: In case of QCBS, the lowest Financial Proposal (<i>Fm</i>) will be given a financial score (<i>Sf</i>) of 100 points. The financial scores (<i>Sf</i>) of the other Financial Proposals will be computed as indicated above. Proposals will be ranked according to their combined technical (<i>St</i>) and financial (<i>Sf</i>) scores using the weights (<i>T</i> = the weight given to the Technical Proposal; <i>P</i> = the weight given to the Financial Proposal; <i>T</i> + <i>P</i> = 1) indicated in the Specific Instructions: .</p> <p>257. It then prepares a Combined Technical and Financial Evaluation Report, recommending the consultant with the highest combined technical and financial score for an invitation to contract negotiations.</p>	<p>Combined Technical and Financial Evaluation Report. Section 56</p>

Negotiations.

258. The negotiation team appointed by the Procuring Entity (inclusive of the Procurement Officer) shall formulate the technical and financial issues to be discussed at negotiations.
259. The purpose of negotiations regarding technical matters shall be:
- (a) to formulate and finalize the Terms of Reference into the scope of services to be carried out under the assignment;
 - (b) to agree on the methodology and work plan;
 - (c) agree to mobilization arrangements and reporting deadlines;
 - (d) confirm the availability of key staff, make adjustments regarding deliverables and staff time as may be necessary; Provided the selected firm shall not be allowed to substitute proposed key staff at the time of negotiations (or at contract award) unless this is unavoidable due to circumstances such as delay in the selection procedure and a resulting extension of the proposal validity period.
260. If it turns out at negotiations that any key staff proposed is no longer available, the Procuring Entity may disqualify the consultant. However, if an agreement can be reached on replacing key staff, their qualifications and experience shall be the same or better than for the key staff originally proposed.
261. The final TOR and the agreed methodology shall be incorporated in the “Description of Services”, which shall form part of the contract.
262. The purpose of negotiations regarding financial matters shall be to agree;
- (a) on general payment terms;
 - (b) payments to be made in foreign and local currency;
 - (c) mobilization payments and bank guarantee structure and tenor;
 - (d) taxes (especially a clarification of the consultant’s local tax liability, if any);
 - (e) price adjustment formulas, if applicable, and other elements of the Special Conditions of Contract;
 - (f) The Procuring Entity’s contribution of available documentation and studies, office space, and counterpart staff time and their responsibilities, shall also be discussed.
263. However, the TOR, the terms of the contract on the basis of which the selection process was initiated and the proposal evaluated shall not be substantially altered. Unit prices, on the basis of which the financial proposal was ranked, shall not be negotiated.

<p>264. On completion of negotiations, the negotiation team prepares a report to the designated authority of the Procuring Entity, which then proceeds to contract award, subject to PPA's approval instruments.</p>	
<p>265. If negotiations are unsuccessful, the Procuring entity shall invite the next best ranking candidate for negotiations and this procedure continues until the negotiation stage is successfully concluded. Once negotiations with the next candidate begin, the Procuring Entity shall not reopen negotiations with the former candidate.</p>	<p>Unsuccessful Negotiations. Section 57 (3)</p>
<p>266. After successful completion of negotiations, but subject to the Agency's approval instruments, where necessary, the Procuring Entity shall promptly proceed with the award of the contract to the successful candidate by sending it a Notification of Award and inviting it for contract signature. This procedure must be concluded within the period of proposal validity or the extended proposal validity. The Procuring Entity shall also notify the other shortlisted candidates who passed the technical minimum mark that they were unsuccessful.</p>	

<p>267. B. Evaluation Procedure for the Quality Based Selection (QBS).</p> <p>268. The Procuring Entity shall apply the QBS method when:</p> <ul style="list-style-type: none"> (i) the high degree of technical quality of an assignment is of overriding importance because of its high supplementary impact on the successful outcome of the project and made the main focus of the competition; (ii) the scope of the assignment is difficult to determine and requires innovation, or; (iii) different technical approaches are possible making price comparison difficult. <p>In all these cases, the price is of secondary importance and usually negotiated with the best ranking technical candidate. Examples are the construction of a large dam or a building with special architectural requirements, consultants assistance for privatization of complex public assets (petrochemical industries, utilities), or management advice where the outcome is of critical importance for the success of public sector efficiency (major institutional reforms).</p>	<p>Use of the QBS Section 57 (1)</p>
<p>269. The Procuring Entity may choose either of the following procedures to conduct Quality Based Selections:</p> <p>The RFP invites for technical proposals only and invites a financial proposal from the candidate with the best ranking technical proposal. After evaluation of the financial proposal it invites the candidate for contract negotiations; or</p>	<p>Conduct of QBS Section 57 (2)</p>

<p>The RFP invites for technical and financial proposals in separate envelopes at the same time, but only opens the financial proposal of the best ranking technical candidate, which it then negotiates to conclude a contract. If negotiations are unsuccessful, the financial proposal of the next best ranking candidate is opened and negotiated, and so on until a satisfactory contract is concluded. The remaining financial proposals should be kept sealed in a safe box and returned unopened to the unsuccessful candidates.</p> <p>270. The RFP preparation and the evaluation and selection procedures are otherwise the same as for QCBS.</p>	
<p>C. Evaluation Procedure for the Least Cost Selection (LCS).</p> <p>271. A Procuring Entity may apply the Least-Cost Selection method for smaller (less than N25 million) assignments, or assignments of standard and routine nature with well-established practices, where TOR can be easily defined, such as standard financial audits and simple engineering. The procedure is based on comparability of technical proposals and least cost. When applying this method, the Procuring Entity shall issue the RFP and carry out the evaluation of technical and financial proposals. This method does not include weighing quality versus price. Following the technical evaluation, the Procuring Entity shall retain only those firms that obtained the minimum technical score. The Procuring Entity shall proceed to public opening and evaluation of the financial proposals of those candidates who scored the minimum technical score only. Following the financial evaluation, the candidate with the lowest evaluated financial proposal is invited for negotiations. If an agreement is not reached, the candidate whose financial proposal is ranked second lowest shall, in turn, be invited to negotiate and so on, until a satisfactory agreement is reached with next best-ranked candidate.</p>	<p>Least Cost Selection (LCS)</p>
<p>D. Fixed Budget Selection (FBS).</p> <p>270 A Procuring Entity may apply the Fixed Budget Selection procedure for simple assignments where TOR and staff input can be precisely defined, and where the cost cannot exceed a fixed budget amount. The RFP shall state the fixed amount in the Specific Instructions. Candidates shall be requested to provide their best technical and financial proposals in separate envelopes, as under QCBS, with cost figures that shall not exceed the budgetary limit. For this purpose, the Procuring Entity shall prepare the TOR carefully and make a detailed internal cost estimate, to ensure that the budget is sufficient to carry out the requested assignment. The RFP shall indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. The Procuring Entity shall proceed with the opening and evaluation of the technical proposals. At the public opening of the financial proposals of the technically qualified candidates, the financial proposals shall be read out aloud and the proposals that exceed the budgetary limit shall not be further evaluated. The Procuring Entity shall select the candidate who has submitted the highest ranked technical proposal within the</p>	

<p>budget limit for contract negotiations, award and signature subject to any necessary PPA certification.</p>	
<p>E. Consultants Qualifications Selection (CQS).</p> <p>271.A Procuring Entity may apply the CQS method for small and unique assignments, mostly with a short duration, (a) when a comprehensive selection procedure is not justified; (b) when the time and cost of examining and evaluating a large number of proposals are disproportionate to the value of the services requested; (c) when a firm’s speciality meets the unique criteria for a particular assignment for which there are few specialist firms available and (d) when it is in the interest of national defence and security.</p> <p>272. Under the CQS method, the Procuring Entity shall first prepare the TOR. Thereafter, the Procuring Entity shall advertise the request expressions of interest. The request shall indicate the main elements of the assignment taken from the TOR and ask for information on the consultants’ qualifications, experience and proven competence in the area of the assignment. After review of the expressions of interest and information received, the Procuring Entity shall select the most suitable candidate and request it to submit a combined technical-financial proposal on the basis of a simplified RFP including detailed TOR. An evaluation committee of the Procuring Entity shall evaluate the technical and financial proposal, make its recommendations for contract negotiations, and submit them to the designated approving authority. Once approval is obtained, the Procuring Entity shall proceed to negotiations, obtain PPA approval instruments prior to contract signature.</p>	<p>Consultants Qualifications Selection (CQS) Section 57 (1)</p>
<p>F. Single Source Selection – (SSS).</p> <p>273. A Procuring Entity may with the express written approval of the PPA, request a single firm to prepare technical and financial proposals based on a simplified RFP with detailed TOR, and, following PPA –approval negotiate a contract. Since Single Source Selection does not have the benefits of competition and comparative analysis, the Procuring Entity shall take all cautionary measures to ensure that the principles of economy, efficiency and transparency are respected.</p> <p>274. The following circumstances may warrant single source selection:</p> <ul style="list-style-type: none"> (a) Emergency situations arising from natural disasters or a financial crisis or other sudden unpredictable events requiring immediate expert advice. However, sudden requirements for expertise that are caused by lack of or inadequate procurement planning shall not be justified as emergency situations. (b) Small value (c) advice of a proprietary nature where a sole firm has the only expertise; (d) continuity of similar services, where the original contract was awarded competitively following shortlisting, e.g. for assignments of “downstream work”, such as detailed 	<p>Emergency Section 60</p>

<p>engineering after the feasibility study, or supervision of implementation after detailed engineering. However, if the initial RFP, including the selection procedure, and the contract did not provide for possible downstream work, a normal competitive selection procedure shall be followed for the downstream activity, whereby the incumbent consulting firm may be included in the shortlist, provided it completed its upstream work satisfactorily and expresses interest.</p> <p>(e) It is in the interest of national defence and security.</p>	
<p>G. Selection of Special Types of Consultants.</p> <p>The following special types of consultants may be needed for particular assignments. Their use is identified during project preparation or as a result of a federal development policy program, or programs associated with national or international development organizations or activities.</p>	
<p>275. A Procuring Entity may decide to use the services of Financial Institutions (Investment Banks, Commercial Banks, Financial Management Firms, or Privatization Consultants) for advice in the privatization of public assets or assistance in the privatization process itself. Selection shall be by QCBS method. Selection criteria may include experience in similar assignments, having a network of potential purchasers, or past results in assets sold. When the assignment is for advice only, the selection shall be based on the normal comparison of quality and cost (“retainer fee” and reimbursable expenditures). If, in addition, the assignment includes assistance in privatization, the RFP and the selection procedure may be based on a “success fee” proposed by competing consultants on the basis of their individual estimate of the likely sale value of the assets, described in the RFP. Under this alternative, if the consultant passes the minimum qualifying technical mark, the success fee may be the only price element of competition, while the fee and the reimbursable cost are fixed amounts. Pre-proposal visits to the site (with minutes signed by participants) may be required to provide sufficient information to competing consultants in order to obtain responsive proposals and to avoid ambiguities during the evaluation procedure.</p>	<p>Use of Financial Institutions.</p>
<p>275. For complex project activities, where the Procuring Entity lacks the necessary procurement capacity, PPA may direct that it contract a procurement agent to handle the procurement on behalf of the Procuring Entity. For the selection, the Procuring Entity shall follow the QCBS method. The contract shall provide that the procurement agent will be paid a fixed fee or a percentage of the contracts that will be procured. If the contract is only for procurement advice, payment terms may be a fixed fee or on the basis of a “time-based” contract (number of staff-months) with a ceiling price. Since the work is fairly routine, the price competition may be increased in the selection criteria of the RFP by setting the proportional weight given to the cost of the assignment and the technical quality of the proposal at 50 points each</p>	<p>Use of Procurement Agents.</p>
<p>276. For social type of development projects, where the knowledge of the local community is paramount for the success of the project, or in cases where the contribution of civil society is needed, Procuring Entities may</p>	<p>Use of Non-Governmental</p>

decide to use non-governmental or non-profit organizations (NGOs). Procuring Entities shall use the QCBS selection method for larger assignments, but for smaller assignments, the CQS method may be applied. The normal procedures for advertising for expressions of interest and shortlisting shall be followed. The RFP should include criteria to ensure that NGOs are qualified and possess proven success rates in their field of competence (especially for social services). NGOs may be included in the shortlist if they express interest. Single source selection may be appropriate, subject to the Procuring Entity's internal review procedures and PPA approval instruments if the program activity is subject to prior review.

**Organizations
(NGOs).**

Part V. Selection of Individual Consultants													
<p>277. When a Procuring Entity needs individual technical advice or assistance it may want to select individual consultants with the experience and qualifications necessary for a particular assignment. This type of services may include, but not limited to:</p> <ul style="list-style-type: none"> (a) preparation of TOR; (b) updating or revision of feasibility studies; (c) preliminary engineering designs of smaller projects; (d) technical assistance in economic and sectoral planning, institutional reorganization and management; (e) assistance in procurement planning, preparation of bidding and proposal documents, and the evaluation of bids for goods and works and consultant proposals; (f) technical assistance in project management, supervision or completion reports; (g) training. 													
<p>278. Procuring Entities may advertise the assignment in order to receive expressions of interest. However, they may constitute a shortlist from their available database and approach the individuals directly by sending them the TOR. Selection shall be carried out through comparison of the qualifications of at least six suitable candidates. Regulations of the Procuring Entity for evaluation and approval of candidates shall apply. Criteria shall be academic background, experience, specific knowledge and verifiable references for successful completion relevant for the assignment. If the quality of the assignment is paramount and the expertise rather rare, selection shall be done on the basis of quality only. When the expertise for an assignment is more generally available, fees may be negotiable depending on market conditions and availability of the individuals. For assignments of more than 6 months, an interview of the candidates must be carried out before final selection is made. Approval instrument shall be obtained from PPA as required.</p>	Selection Procedure (Individual consultants)												
<p>279. Evaluation Criteria. Procuring Entities shall apply the following technical scores, which may vary according to the type of assignment, in the selection of individual consultants, as shown in the example below:</p> <table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Evaluation Criteria</th> <th style="text-align: right;">Points</th> </tr> </thead> <tbody> <tr> <td>General Qualifications (Education, Working Experience</td> <td style="text-align: right;">10</td> </tr> <tr> <td>Adequacy for the assignment (applicability of experience)</td> <td style="text-align: right;">15</td> </tr> <tr> <td>Relevant Experience</td> <td style="text-align: right;">65</td> </tr> <tr> <td>Communication Skill, Computer Skill, etc</td> <td style="text-align: right;">5</td> </tr> <tr> <td></td> <td style="text-align: right;">10</td> </tr> </tbody> </table>	Evaluation Criteria	Points	General Qualifications (Education, Working Experience	10	Adequacy for the assignment (applicability of experience)	15	Relevant Experience	65	Communication Skill, Computer Skill, etc	5		10	
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	10												

<p>280. For a competitive selection of individual consultants, the Procuring Entity shall use PPA’s standard Letter of Invitation (LOI) and contract for individual consultants. If the consultants are selected on a competitive basis using quality only, the Procuring Entity shall contact the consultant with the highest technical score and if available negotiate the fee and other terms and conditions. If selection takes place on the basis of quality and cost comparison, the Procuring Entity shall offer the contract to the consultant with the highest combined score.</p> <p>281. Procuring Entities may contract individual consultants directly in exceptional cases, such as:</p> <ul style="list-style-type: none"> (a) tasks that are a continuation of previous work of the consultant, for which the consultant was selected; (b) assignments lasting less than six months; (c) emergency situations resulting from natural disasters or a financial crisis or similar events; (d) when there are only a few or no other consultants available with the required expertise. <p>282. In such case, the Procuring Entity shall send the Consultant the Letter of Invitation (LoI) with the TOR and conditions of contract, negotiate the fee if necessary, obtain PPA approval prior to signing the contract.</p>	
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Schedule 1

Review and Approval of Consultants Selection

<p>1). Review of Selection Procedure</p> <p>For all selection methods subject to prior review in accordance with thresholds issued by the Board, the Agency shall fulfil the review function. For this purpose, PPA shall review, but is not limited to the selection procedures proposed by the Procuring Entity, including advertising, the Terms of Reference, the Request for Proposals, and the planning of the procurement process, for conformity with the Regulations and the Procurement Law. The Procuring Entity shall promptly inform PPA of any delay, or other changes in the implementation of the procurement plan regarding the selection procedure, and agree with PPA on corrective measures.</p>	
<p>2). Internal Procurement Review at the Procuring Entity.</p>	

<p>a. The Approving Authority of a Procuring Entity is the Tenders Board where it concerns a Ministry or by Parastatals' Tenders Board where it concerns a Public Enterprise.</p> <p>b. The Procurement Office (PO) of MDAs prepares all procurement documents, including procurement plans, in collaboration with the relevant units, and prepares requests for PPA approvals on behalf of the Tenders Board.</p> <p>c. The Procurement Planning Committee (PPC), which is composed of representatives of various Departments, reviews if procurement plans meet the needs and budget of the MDA and tenders are on schedule with the needs assessment.</p>	
<p>d. Before Proposals are invited, the Procuring Entity shall furnish to PPA for its approvals, the Request for Expressions of Interest and the draft Terms of Reference, the proposed shortlist and draft Request for Proposals, including the evaluation criteria; and the conditions of contract, and shall make such modifications in said documents as PPA shall reasonably request. Any further modification shall require PPA's approval before it is issued to the shortlisted candidates.</p>	
<p>e. For the evaluation of proposals, the Procuring Entity shall use PPA's Standard Proposal Evaluation Report.</p> <p>f. After proposals have been received and evaluated, the Procuring Entity shall, before a final decision on the award is made, furnish to PPA in a sufficient time for its approval, the technical evaluation report, together with the recommendations for the candidates who passed the qualifying technical mark and whose financial proposals will be evaluated. The technical evaluation report to PPA shall be accompanied by the three best ranking technical proposals. The Procuring Entity shall also request PPA's approval instruments if the technical evaluation report recommends rejection of all proposals.</p> <p>g. When PPA determines that the technical evaluation is inconsistent with the RFP and the approved procurement procedures, it shall promptly inform the Procuring Entity and state the reasons for such determination. Otherwise, PPA shall provide its approval and authorize the Procuring Entity to proceed with the opening and evaluation of the financial proposals, when it concerns a selection based on quality and price (QCBS, LCS, FBS), or give its approval instruments to invite the candidate with the best ranking technical proposal to submit a financial proposal (QBS), or to open and evaluate the financial proposal of the candidate with the best ranking technical proposal (QBS). The <i>approval of</i> the technical evaluation report will also authorize the Procuring Entity to proceed with negotiating a contract with the firm obtaining the highest combined technical and financial scores</p> <p>h. Upon PPA's approval, the Procuring Entity shall invite the selected firm for negotiations, with the intention to award the contract to the</p>	

<p>firm if negotiations are successful. If there are no or only minor changes in the draft contract issued with the RFP, the Procuring Entity and the selected candidate may negotiate the contract by facsimile or electronic mail. After successful negotiations, the Procuring Entity and the successful firm will initial the draft contract and the Procuring Entity shall submit a copy of the initial contract, Minutes of negotiation meeting to the PPA for approval.</p>	
<ul style="list-style-type: none"> i. If the Procuring Entity requires an extension of bid validity to complete the process of evaluation, obtain necessary approvals and clearances and to make the award, it should seek PPA's prior approval for the extension of the proposal validity period. j. If the Procuring Entity receives protests or complaints from candidates about the evaluation, the Procuring Entity shall send a copy of the Procuring Entity's response to PPA for information. k. The terms and conditions of a contract shall not, without PPA's prior approval, materially differ from those on which proposals were issued. l. In all cases, also those not requiring prior review, the Procuring Entity will send one conformed copy of the contract to PPA promptly after its signing. m. The Procuring Entity shall publicly disclose in its website, the procurement journal and the website of the PPA, the description and amount of the contract, together with the name and address of the successful candidate, and ensure that the signed contract is duly recorded and filed. 	
<p>3. Below the Prior Review thresholds, In all cases below the prior review thresholds of the PPA, the Procurement Office shall prepare the selection documents for submission to the Tenders Board or Accounting Officer depending on the value of the procurement.</p>	
<p>1. Post-Procurement Review. The PPA shall order an annual Independent Procurement Review by independent consultants to verify compliance with the Regulations. The results of the post reviews shall be shared with the Auditor General and the Accountant General.</p>	
<p>2. Amendments, Modifications or Extensions. If an amendment to the contract, or change order, or extension would increase the original amount of the contract price by more than 15%, or if any other major modification is needed to complete the contract, prior PPA approval instruments is required. PPA has the right to approve or reject such changes, and in the latter case, to propose alternative less costly modifications or recommend a reduction in the scope and size of the contract</p>	

Schedule 2

Types of Consulting Contracts	
<p>1. Standard Contract Forms. Procuring Entities shall use the following Standard Contracts for Consultants Services prepared by PPA:</p> <ul style="list-style-type: none"> (a) Lump-Sum Contracts for complex assignments (b) Lump-Sum Contracts for simple assignments (c) Time-Based Contracts for complex assignments (d) Time-Based Contracts for simple assignments (e) Lump-Sum and Time-Based Contracts for Individual Consultants <p>2. In the rare circumstances that the Standard Contract is not applicable to a specific consulting assignment, a different contract form may only be used with PPA's prior approval.</p>	
<p>3. For all contract forms, the main contract provisions are described in the General Conditions of Contract, which are standard and shall not be changed. Provisions that are specific to the assignment and any modifications to the General Conditions of Contract are detailed in the Special Conditions of Contract. Provisions of the General Conditions of Contract can only be modified through the Special Conditions of Contract. The Standard Contract, including the Special Conditions of Contract, shall always be part of the RFP.</p>	
<p>4. All Contracts for Consulting Services, whether standard or otherwise, shall contain provisions for the following important elements or requirements. A Preamble explaining the Procuring Entity's need for the services and confirming the readiness and ability of the consultant to render such services.</p> <ul style="list-style-type: none"> (a) A list of the documents constituting the Contract. (b) Definitions and Interpretations of the basic terms used in the Contract. (c) The date for commencement and the time for completion of the services. (d) Postponement and Termination of the Contract, upon notice by the Procuring Entity or in case of force majeure, and the ensuing rights and liabilities of each party. (e) Entry into force of the Contract. (f) Modification of the Contract. (g) The rights, obligations and liabilities of the parties, including circumstances of indemnification by one party to the other. (h) Changes in the status or organisation of the consultant during the course of the Contract. (i) Clarification of taxation requirements applicable to the consultant in the country where the project is located. (j) Identification of the insurances that must be taken out by the consultant. (k) Ownership of the material prepared by the Consultants. 	

<ul style="list-style-type: none"> (l) The consultant's personnel and any counterparts of the Procuring Entity. (m) Assignment of the services or any part thereof to sub-consultants. (n) Remuneration of the consultant and the method of payment. (o) The procedure for settlement of disputes. (p) The language of the Contract and the applicable law. (q) The addresses of the Procuring Entity and the Consultant for the purpose of formal notices. 	
<p>5. Lump-Sum (Fixed Price) Contract: Under Lump Sum Consultancy Services, the candidate firm includes its total remuneration (fees) on the basis of the estimated input of its personnel, along with the cost of the inputs (reimbursable) to carry out the services. The services are paid on the basis of the agreed payment schedule in accordance with set milestones (deliverables) of the progress of the services, usually associated with reports. Lump-sum contracts are used mainly for assignments in which the content and the duration of the services and the required output of the consultants are clearly defined. They are therefore easy to administer. As a general rule, contracts for assignments that provide for the production of regular reports are lump-sum based. Feasibility studies, design and detailed engineering services or standard accounting services are also contracted on a lump sum basis. The contract includes the agreed breakdown of the cost components. If the lump-sum contract is subject to price adjustment, the financial forms of the RFP should include the table asking for the detailed breakdown of the remuneration of the consultant, which shall be used to calculate the increase in the remuneration according to an agreed price adjustment formula which takes into consideration inflation rates local/international price adjustment formula should be included in all contracts with a duration of over 18 months.</p>	
<p>6. Time-Based Contract. Time-based contracts are used when the scope and length of services are difficult to determine, either because the services are linked to activities of other parties in the project or because the inputs by the consultants to reach the objectives are spread over time. As a consequence, even though the contract may provide for periodic reports, the time spent is subject to variables that cannot be precisely estimated for the whole assignment. Therefore, the actual time spent becomes the main measurable cost element of the assignment. Payment is based on the agreed time-based rates for the consultant's staff as detailed in the relevant remuneration schedule of the contract, complemented by the agreed reimbursable items. The time-based rates concern the staff month rates including all salaries, social benefits, costs, overheads and profits. The reimbursable costs are separate and will be paid according to unit rates and/or actual. Consultants are required to keep time-sheets of the actual time spent and submit their invoices on that basis, which may be audited accordingly. The contact price agreed is included in the contract as the “ceiling amount” of the total payments to be made to the consultants. Usually, the contract requires the consultant to advise the Procuring Entity when it reaches 80 % of the ceiling price. This permits the Procuring Entity to make a judgment if the contract can be completed as envisaged, or if the scope of the assignment needs to be reduced to stay within the budget, or if an increase in the costs needs to be negotiated. The ceiling amount should</p>	

<p>include an allowance for contingencies to cover unforeseen work and expenses and a provision for price adjustment where appropriate.</p> <p>7. Time-based contracts are mostly suited for supervision services of works, lengthy studies with multiple components and inputs, longer-term technical assistance or training, and management contracts.</p>	
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Schedule 3

<p>Information for Consultants on the content of the Request for Proposals</p>	
<p>Standard Request for Proposals (RFP). The RFP is a standard document, which includes the standard “Instructions to Consultants” (ITC) and the “Specific Instructions”, which consists of line-item modifications to the standard clauses to adapt the ITC to the specific requirements of the assignment. If under exceptional circumstances, the Procuring Entity needs to amend the standard ITC, it shall do so through the Specific Instructions attached to the ITC and not by amending the main text.</p>	
<p>Standard Contracts: The standard contracts consist of the General Conditions of Contract, which provision can only be altered by SCC and the Special Conditions of Contract, which consist also of line-item modifications of the standard section to specify the agreements reached during contract negotiations regarding the consulting assignment, including advances, payment arrangements, tax liabilities and reporting schedules. It also contains important annexes regarding the agreed Description of Services (which is the final version of the Terms of Reference agreed during contract negotiations), the breakdown of costs, the agreed fixed rates, and the list of key staff.</p>	
<p>Contents of the RFP. The RFP shall include adequate information on the following aspects of the assignment:</p> <ul style="list-style-type: none"> • The name and address of the Procuring Entity; • A requirement that the proposals are to be prepared in the English language • The names of the shortlisted consultants that were selected after the analysis of the Expressions of Interest received, and to whom the RFP will also be sent; • a request to the shortlisted candidates in the introductory Letter of Invitation, which is part of the RFP, to acknowledge promptly receipt of the RFP, and to inform the Procuring Entity whether or not the candidate will submit a proposal; • a description of the assignment, including the nature, required characteristics, and location of the services to be procured, and when they are to be provided; • a statement that the Procuring Entity reserves the right to reject proposals without obligation; • a statement that if a short-listed firm (or the firm with which it will be associated) combines the functions of consultants with those of contractor, or if it is associated with a manufacturer or is a manufacturer with a department or design office offering services as a consultant, the shortlisted candidate is required to include in its proposal all relevant information on such relationship, along with a statement to the effect that it shall limit its role to that of a consultant, and that neither the firm 	<p>Section 51 (1)-(2)</p>

nor its associates/affiliates shall participate in the project in any other capacity;

- the deadline for submission of proposals. Any proposal received after the submission deadline shall be returned unopened, and this is not negotiable regardless of the circumstance;
- if based on the Quality Based Selection (QBS), Quality and Cost-Based Selection (QCBS), Least-Cost Selection (LCS) or Fixed Budget Selection (FBS) method, the proposal must be divided into a separate technical and a financial proposal;
- the RFP shall include standard forms to complete the technical and financial proposals, and clearly state that the technical proposal shall not provide any price information, subject to proposal rejection;
- information on whether associations between short-listed consultants are acceptable (usually this is not the case to avoid limiting the competition or collusion among the candidates). Conditions for subcontracting part of the assignment are also stated;
- the procedure on how clarifications are permitted about the information given in the RFP;
- the names and contact information of officials to whom clarifications shall be addressed and with whom the consultants' representative shall meet, if necessary;
- reference to any laws in Nigeria that may be particularly relevant to the proposed consultants' contract, including the requirement that the proposal is to be expressed in Nigerian currency and for international proposals, that the local costs are to be expressed in Nigerian currency;
- a statement that the firm and any of its affiliates shall be disqualified from providing downstream services under the project if, in PPA's judgment, such activities constitute a conflict of interest with the services provided under the assignment, or, conversely, that the assignment includes a possible contract for downstream work, as detailed in the RFP; in the latter case, a statement that the RFP provides a phasing of the assignment and candidates are usually requested to make indicative proposals for the downstream work.
- details of the selection method to be followed, including the criteria and procedures for the evaluation of the qualifications of the consultants, including weights given to each criterion, and the relative weights for quality and cost in the case of QCBS, or lowest cost and quality (LCS) or quality and cost within a fixed budget limit (FBS); a statement if a margin of preference will be applied for shortlists consisting of domestic and international consultants.
- the RFP shall include the details on the public opening of financial proposals and the financial evaluation;

<ul style="list-style-type: none"> • the minimum technical qualifying mark necessary for a proposal to move to the financial evaluation (QCBS, LCS, FBS); • an estimate of the level of key staff inputs (in staff-months) required of the consultants; minimum experience, academic achievement expected of key staff; • information if advances are allowed, what the requirements are for bank guarantees covering the advance, the modalities for reporting and payment arrangements • information on contract negotiations, and financial and other information that shall be required of the selected firm during negotiation of the contract; • the period for which the consultants' proposals shall be held valid (normally 60-120 days) and during which the consultants shall undertake to maintain, without change, the proposed key staff, and shall not increase the rates and total price proposed; • in case of extension of the proposal validity period, the right of the consultants not to maintain their proposal; • a statement indicating whether or not the consultants' contract and personnel shall be tax-free or not; and if not: what the likely tax burden will be or where this information can be obtained, and a statement requiring that the consultant shall include in its financial proposal a separate amount clearly identified, to cover taxes; • if not included in the TOR or in the draft contract, details of the services, facilities, equipment, and staff to be provided by the Procuring Entity; 	
<p>Specific Aspects of the Technical Proposal</p>	
<p>The technical proposal must cover the following information and evidence:</p> <ul style="list-style-type: none"> • background, organization and experience of the shortlisted firm: • a list of similar assignments undertaken by the firm, at least during the last 3 to 5 years. Similar information regarding the associated firm or firms must also be submitted; • proposed technical approach and work program including: <ul style="list-style-type: none"> ○ comments on the Terms of Reference; ○ the general approach proposed for carrying out the work plan, including the organization and time-schedule of the proposed services; ○ a bar chart indicating clearly the estimated duration (separately, in the home office and in the field) and the probable timing of the assignment of each professional to be used as well as estimates of the number of man-months to be allocated by each professional; 	

<ul style="list-style-type: none"> ○ detailed description of the specific tasks to be assigned to each member of the proposed team; ○ in case of an association, details of the agreement defining the role of each firm and the mutual relationship. ● Name, age, nationality, background, education, employment record and detailed professional experience of each professional to be assigned for providing the services. ● Arrangement for office space, vehicles, office and field; equipment etc. required for carrying out the services <p>Evaluation of the technical proposals: the technical evaluation will be based among others on the following criteria:</p> <ul style="list-style-type: none"> ○ general experience of the firm and particular experience in the sector concerned, years of experience and proven verifiable results ○ responsiveness to the TOR and thoroughness of the approach and work plan; ○ qualifications and expertise of key personnel; ○ other aspects such as transfer of knowledge, training program, participation of domestic consultants in international proposals (if requested in the RFP) 	
Specific Information on the Financial Proposal	
<p>The financial proposal provides details on the following, both in the case of a lump sum or time-based assignment (staff-month rates plus reimbursable costs):</p> <ul style="list-style-type: none"> ● the currency in which the costs of services shall be converted, compared (Naira at the medium exchange rate of the Central Bank of Nigeria at the date of financial proposal opening), and paid ● a breakdown of all time-based rates, including basic salaries, benefits, allowances, local taxes, overheads etc. The proposal must also give an estimate of the cost of any reimbursable items such as per diem, office space, equipment, travel and transportation; ● a breakdown of the individual items of expenditure on local cost for domestic proposals or foreign and local currency cost for international proposals. ● Final evaluation will be based on the cost of the financial proposal. For Quality and Cost Based Selection, the weight of the technical and financial proposals is usually based on a proportion of 80-20 points. ● Proposals should remain valid for a period of 60 to 120 days from the date indicated in the RFP, depending on the complexity of the assignment. 	

Schedule 4

<p>This Annex provides information to Consultants, both firms and individuals, interested in participating in the procurement of consulting contracts.</p>	
<p>Procuring Entity's Role. The Procuring Entity is responsible for the selection and employment of consultants. It invites, receives, and evaluates proposals and awards the contract. The standard Request for Proposals (RFP) and the terms and conditions of the standard contract between the Procuring Entity and the Consultant defines the rights and obligations of each contracting party.</p> <p>The Procuring Entity shall</p> <ul style="list-style-type: none"> (a) .Document Procurement Procedure (b). Carry out tender evaluations, recommend awards. 	
<p>Role of the Lagos State Public Procurement Agency (PPA).</p> <p>The Board sets thresholds for the prior review of public procurement launched by Procuring Entities, and for contracts subject to “prior review” the PPA reviews the documents for their correctness before the Procuring Entity issues them, and issues approval instruments for contract award”</p> <p>If at any time in the procurement process, the PPA concludes that the agreed procedures were not followed in any material respect, or if the "Certificate of Compliance" was issued on the basis of incomplete, inaccurate or misleading information, the Board may declare mis-procurement.</p> <p>The PPA has the power to blacklist/debar any supplier, contractor, or service provider that contravenes the Procurement Law or the Regulations made pursuant to this Law, and to maintain a list of firms and persons that have been blacklisted/debarred from participating in public procurement, and to publish this list in the Procurement Journal.</p> <p>If the PPA determines the engagement in corrupt or fraudulent practices by representatives of the Procuring Entity or of the Tenderer, the PPA may impose or cause to be imposed the applicable sanctions in the Procurement Law.</p> <p>The Agency publishes the details of major contracts in the Procurement Journal and on its website</p> <p>The PPA publishes Standard Proposal Documents (SPDs) for various types of consultant selection. The Regulations require that the Procuring Entities use these documents, with minimum changes as necessary to deal with project-specific aspects.</p>	
<p>Information on the Selection of Consultants. Invitation on opportunities for consulting assignments may be obtained from the PPA Procurement Journal, its website or the websites of the Procuring Entities. In addition, advertisements for expressions of interest are</p>	

<p>placed in leading national newspapers and widely used international newspapers for international shortlists.</p>	
<p>Consultants' Role</p> <p>When consultants receive the RFP, and they decide that they can meet the requirements of the TOR, as well as the commercial and contractual conditions, they should make the arrangements necessary to prepare a responsive proposal (for example, visiting the country of the assignment, seeking associations, collecting documentation, setting up the preparation team).</p> <p>If the consultants find in the RFP documents - especially in the selection procedure and evaluation criteria - any ambiguity, omission or internal contradiction, or any feature that is unclear or that appears discriminatory or restrictive, they should seek clarification from the Procuring Entity, in writing, within the period specified in the RFP.</p> <p>Consultants should ensure that they submit a fully responsive proposal including all the supporting documents requested in the RFP. It is essential to ensure accuracy in the curricula vitae of key staff submitted with the proposals. The curricula vitae should be signed by the individuals and dated and signed by the proposing firms. Noncompliance with important requirements may result in rejection of the proposal. Once the technical and financial proposals are received and opened, consultants shall not be required nor permitted to change the substance and the key staff or to change the quoted fee. Minor modifications may be made at the stage of negotiations in accordance with the provisions of the RFP.</p>	
<p>Confidentiality. The procedure of proposal evaluation shall be confidential until the contract award is notified to the successful firm. Confidentiality enables the Procuring Entity and PPA to avoid improper interference or the perception of it. If during the evaluation procedure, consultants wish to bring information to the notice of the Procuring Entity, PPA, or both, they should do so in writing in accordance with the provisions of the RFP.</p>	
<p>Complaints. The Procuring Entity is responsible for the selection and award procedure and candidates should address themselves to the Procuring Entity for any queries, issues and possible complaints. In the case of a complaint regarding a specific selection procedure, such complaint should first be introduced in writing to the Accounting Officer of the Procuring Entity, in accordance with Section 68 of the Law. If the bidder is not satisfied with the decision of the Accounting Officer, he may make a complaint to the Agency within 10 working days from the date of communication of the decisions of the Accounting Officer.</p>	
<p>Information on contract award. Information on contract award will be published in the procurement journal and on the websites of the Procuring Entities concerned and the website of the AGENCY. If, after notification of award, a consultant wishes to ascertain the</p>	

<p>grounds on which its Proposal was not selected, it should address its request to the Procuring Entity. If a discussion is arranged, only the Proposal of the consultant can be discussed and not the Proposals of other consultants who participated in the selection.</p>	
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Schedule 5

Procurement Filing

4.	<p>The experience is that lack of an efficient filing system causes long and costly delays in the search for documents at critical moments when procurement issues arise (or when procurement post reviews need to be done, complaints arise, Independent Post Reviews are needed by PPA, or procurement audits are required by the Auditor-General. PPA will issue Regulations separately on maintaining an adequate procurement filing system in Procuring Entities Below are some main elements of records of procurement proceedings</p>	
	<ul style="list-style-type: none"> • Description of the goods, works or consulting services requested, usually in the invitation to tender (for goods and works) or the request for proposals for consulting services) • Document prescribing the selection of the tender method or consultant selection method and the reason for this. • Lists of tenderers who submitted tenders or proposals, with names and addresses, usually obtained from the registration of tender or proposal submissions and from the minutes of opening of tenders and proposals • Minutes of tender and proposal opening, with the recording of prices • Tender and proposal evaluation reports • List and summary of clarifications asked during prequalification, tender/proposal submission and evaluation (per tender and per proposal) • Records of formal rejection of tenders or proposals and the grounds thereof • Records of procurement proceedings involving other than open competitive tendering, which did not result in a procurement contract and a statement on the likely reasons • Document by which it was decided to proceed with direct contracting and the reason for this. • Document whereby it was decided to proceed to limited tendering and to grant a margin of preference and the grounds for this • Record of any complaints received from candidates and the responses sent 	