

PART VIII - PROCUREMENT SURVEILLANCE AND REVIEW
BUREAU TO RECOMMEND INVESTIGATION

- 50.** (1) The Bureau may review and recommend for investigation by any relevant authority any matter related to the conduct of procurement proceedings by a procuring entity, or the conclusion or operation of a procurement contract, where it considers that a criminal investigation is necessary or desirable to prevent or detect a contravention of this Law.
- (2) The relevant authority may in the course of investigation:
- (a) require an officer, employee or agent of the procuring entity or bidder, supplier, contractor, or consultant to produce any books, records, accounts or documents;
 - (b) search premises for any book, record, accounts or documents;
 - (c) examine and make extracts from copies of books, records, accounts or documents of any procuring entity, bidder, supplier, contractor or consultant;
 - (d) remove books, records, accounts, or documents of the procuring entity, bidder, supplier, contractor, or consultant for as long as may be necessary to examine them or make extracts from such copies but the investigator shall give a detailed receipt for the books, records, accounts or documents removed;
 - (e) require an officer, employee or agent of the procurement entity or bidder, supplier, or contractor or consultant;
 - (i) to explain an entry in the books, records, accounts or document;
 - (ii) to provide the investigator with information concerning the Management or activities of the procurement entity or bidders as may be reasonably required;
- (3) The Bureau may, pursuant to the advice of the procuring entity results of its review of a procurement or report of investigation by a relevant government agency, issue a variation order requiring a contractor at his own expense to repair, replace, or to do anything in his or her contract left undone or found to have been carried out with inferior or defective materials or with less skill and expertise than required by the contract of award.
- (4) The Bureau shall, if satisfied that there has been a contravention of this Law or any regulations in relation to procurement proceedings' or procurement contract, take action to rectify the contravention which action shall include:

- (a) nullification of the procurement proceedings;
 - (b) cancellation of the procurement contract;
 - (c) ratification of anything done in relation to the proceedings; or
 - d) a declaration consistent with any relevant provisions of this Law.
- (5) On completion of the investigation, the relevant authority shall if an offence is disclosed, take all necessary steps to commence prosecution and inform the Bureau, and the procurement entity accordingly, but where no offence is disclosed, the file shall be closed and the Bureau and procuring entity shall be duly informed.

ADMINISTRATION REVIEW

- 51.** (1) A bidder may seek administrative review of any omission or breach by a procuring or disposing entity under the provisions of this Law, or any regulations or guidelines made under this Law or the provisions of bidding documents.
- (2) A complaint by a bidder against a procuring or disposing entity shall first be submitted in writing to the accounting officer:
- (a) within fifteen working days from the date the bidder first became aware of the circumstances giving rise to the complaint or should have become aware of the circumstances, whichever is earlier;
 - (b) on reviewing a complaint, the accounting officer shall make a decision in writing within 15 working days indicating the corrective measures to be taken if any, including the suspension of the proceedings where he deems it necessary and giving reasons for his decision.
- (3) if the bidder is not satisfied with the decision of the accounting officer or the accounting officer does not make a decision within the period specified in subsection 2(b), the bidder may make a complaint to the Bureau within 10 working days from the date of communication of the decision of the accounting officer or on the expiration of the time within which the accounting officer was expected to act and failed to do so.
- (4) Upon receipt of a complaint, the Bureau shall promptly:
- (a) give notice of the complaint to the respective procuring or disposing entity and suspend any further action by the procuring or disposing entity until the Bureau has settled the matter;

- (b) unless it dismisses the complaint;
 - (i) prohibit a procuring or disposing entity from taking any further action;
 - (ii) nullify in whole or in part an unlawful act or decision made by the procuring or disposing entity;
 - (iii) declare the rules or principles that govern the subject matter of the complaint; and
 - (iv) revise an improper decision by the procuring or disposing entity or substitute its own decision for such a decision.
- (5) Before taking any decision on a complaint, the Bureau shall notify all interested bidders of the complaint and may take into account representations from the bidders and from the respective procuring or disposing entity.
- (6) The Bureau shall make its decision within twenty-one working days after receiving the complaint, stating the reasons for its decisions and remedies granted, if any.
- (7) where the Bureau fails to render its decision within the stipulated time, or the bidder is not satisfied with the. decision of the Bureau, the bidder may take the following action;

MEDIATION

- (a) refer such dispute or claim without legal representation to mediation by a single mediator who shall be selected by Agreement between the parties and failing such an agreement, shall be nominated by the president of the professional body of the nature of the project in Rivers State. Where such a dispute concerns a legal matter or a matter relating to the interpretation of the agreement, the mediation shall be conducted by an Advocate practicing as a member of the Nigerian Bar Association (NBA), to be mutually agreed upon between the parties, failing such agreement, to be nominated by the Chairman of the Nigerian Bar Association of any of the branches in Rivers State.

ARBITRATION

- (b) If either party is dissatisfied with the opinion expressed by the mediator or should the mediation fail, then such a party; may with the consent of the other party, refer the dispute for arbitration by a single arbitrator to be mutually agreed upon by both parties. Where the parties fail to agree on such a single arbitrator, to be nominated by the president of the

professional body of the nature of the project in Rivers State. Should the dispute concern a legal matter or a matter relating to the interpretation of the Agreement, the arbitration shall be conducted by an Advocate practicing as a member of the Nigerian Bar Association (NBA), to be mutually agreed upon between the parties, failing such agreement, to be nominated by the Chairman of the Nigerian Bar Association of any of the branches in Rivers State and such decision of the Arbitrator shall be final.