

**PART 1- ESTABLISHMENT OF RIVERS STATE BUREAU ON PUBLIC  
PROCUREMENT**

1. (1) There is hereby established the Rivers State Bureau on Public Procurement (in this Law referred to as “The Bureau”).
- (2) The Bureau:
  - (a) Shall be a body corporate with perpetual succession and a common seal;
  - (b) may sue and be sued in its corporate name; and
  - (c) may acquire, hold or dispose of any property, movable or immovable for the purpose of carrying out any of its functions under this Law.
- (3) The Bureau shall be governed by a Board of Directors which shall consist of:
  - (a) a non Executive Chairman;
  - (b) the Attorney General and Commissioner for Justice;
  - (c) seven other members four of whom shall be experts in procurement law, management and engineering;
  - (d) the Director General of the Bureau.
- (4)
  - (a) The Chairman and members shall be appointed by the Governor for a term of four years subject to the confirmation of the Rivers State House of Assembly.
  - (b) the chairman and members so appointed shall be eligible for reappointment for a further term of four years and no more:
  - (c) the Chairman and members shall be appointed on such terms and conditions as specified in their letters of appointment.
- (5)
  - (1) The Chairman or a member of the Board may cease to hold office if he or she resigns by notice in writing to the Governor.
  - (2) The Governor may remove a member from office if he is satisfied that the member:
    - (a) is an undischarged bankrupt; or
    - (b) is, for whatever reason, permanently incapable of performing the duties of a member; or
    - (c) has neglected the duties of a member or has engaged in misconduct; or

- (d) has been absent, without leave of the Board for 4 consecutive meetings of the Board; or
- (e) has been convicted of an indictable offence or an offence against this law.

## **FUNCTIONS OF THE BOARD**

### **2. The Board Shall:**

- (a) consider, approve and amend the monetary and prior review thresholds for the application of the provisions of this Law by procuring entities;
- (b) consider and approve policies on public procurement;
- (c) approve the appointment of the Directors of the Bureau;
- (d) receive and consider, for approval, the audited accounts of the Bureau of Public Procurement;
- (e) approve changes in the procurement process to adapt to improvements in modern technology;
- (f) as far as practicable benchmark the policies on procurement under this Law with policies for procurement approved from time to time by the partner agency created or existing under the Public Procurement Act of the Federal Government of Nigeria; and
- (g) give such other directives and perform such other functions as may be necessary to achieve the objectives of this Law.

## **FUNCTIONS OF THE BUREAU**

### **3. The Bureau shall:**

- (a) formulate the general policies and guidelines relating to public sector procurement for approval by the Board;
- (b) publicize and explain the provisions of this Law;
- (c) supervise the implementation of established procurement policies;
- (d) monitor the prices of tendered items and keep a database of standard prices;
- (e) publish the details of major contracts in the procurement journal;

- (f) publish paper and electronic editions of the procurement journal and maintain an archival system for the procurement journal;
- (g) maintain a database of the particulars and classification and categorization of State contractors and service providers;
- (h) collate and maintain in an archival system, all state procurement plans and information;
- (j) organize training and development programmes for procurement professionals;
- (k). periodically review the socio-economic effect of the policies on procurement and council accordingly;
- (l) prepare and update standard bidding and contract documents;
- (m) prevent fraudulent and unfair procurement and where necessary apply administrative sanctions;
- (n) review the procurement and award of contract procedures of every entity to which this Law applies;
- (o) perform procurement audits and submit such report to the State House of Assembly bi-annually;
- (p) introduce, develop, update and maintain related database and technology;
- (q) establish a single internet portal that shall, subject to section 14 (20) of this Law serve as a primary and definitive source of all information on government procurement, containing and displaying all public sector procurement information at all times;
- (r) coordinate relevant training programs to build institutional capacity; and
- (s) In so far as standards and database are *concerned*, adopt by official gazette and make applicable in Rivers State any similar standard or data base as, for the time being are applicable in public procurement by the Federal Government of Nigeria; with or without modifications.

#### **POWERS OF THE BUREAU**

- 4. (1) The Bureau shall have the power to:
  - (a) enforce the monetary and prior review thresholds set by the Board for the application of the provisions of this Law by the procuring entities;

- (b)
    - (i) cause to be inspected or reviewed a procurement transaction to ensure compliance;
    - (ii) determine whether a procuring entity has violated a provision of this Law;
  - (c) de-list a supplier, contractor or service provider that contravenes this Law or regulations made under this Law;
  - (d) maintain a list of firms and persons that have been de-listed and publish same in the procurement journal;
  - (e) provide guidelines for the classification, and registration of contractors and service providers by the procuring agency and maintain a database of State of contractors and service providers which may be reviewed periodically.
  - (f) request for information in respect of a breach, in a procurement proceeding;
  - (g) recommend to the Board, where there is breach of this Law, for:
    - (i) the suspension of officers concerned with the procurement or disposal proceeding in issue;
    - (ii) the replacement of the head or any of the members of the procuring or disposal unit of any entity or the Chairman or Chairperson of the Tenders Board as the case may be;
    - (iii) the discipline of the Accounting Officer of any procuring entity;
    - (iv) any other sanction that the Bureau may consider appropriate;
  - (j) call for the production of books of accounts, plans, documents and examine persons or parties in connection with any procurement proceeding;
  - (k) act upon complaints in accordance with the procedures set out in this Law;
  - (l) nullify the whole or any part of any procurement proceeding or award which is in contravention of this Law; and
  - (m) do such other things as are necessary for the efficient performance of its functions under this Law;
- (2) The Bureau shall, subject to the approval of the Board have power to:

- (a) enter into contract or partnership with any company, firm or person which in its opinion will facilitate the discharge of its functions;
- (b) request for and obtain from any procurement entity information including reports, memoranda and audited accounts, and other information relevant to its functions under this Law; and
- (c) liaise with relevant bodies or institutions national and international for effective performance of its functions under this Law.

#### **DIRECTOR-GENERAL OF THE BUREAU**

- 5.** (1) There shall be for the Bureau, a Director-General who shall be appointed by the Governor on the recommendation of the Board after competitive selections.
- (2) The Director-General is:
- (a) the Chief Executive and Accounting Officer of the Bureau;
  - (b) responsible for the execution of the policy and day to day administration of the affairs of the Bureau; and
  - (c) a person who possesses the relevant professional qualification and shall have been so qualified for a period of not less than 15 years.
- (3) The Director-General shall hold office
- (a) for a term of 4 years in the first instance and may be re-appointed for a further term of 4 years and no more; and
  - (b) on such terms and conditions as may be specified in his letter of appointment.
- (4) Without prejudice to the provisions of this Law, the Director-General of the Bureau may be removed from office at the instance of the Governor on the basis of gross misconduct or financial impropriety, fraud, and manifest incompetence upon the recommendation of the Board.

#### **PRINCIPAL OFFICERS OF THE BUREAU**

- 6.** (1) The Board shall appoint the principal officers for the Bureau after competitive selection process.
- (2) The Principal Officers appointed under sub-section (1) of this section shall each have the requisite qualification and experience required for the effective performance of the functions of their respective Departments and the Bureau as

specified under this Law.

- (3) The Board shall have power to modify the operational structure of the Bureau as may be necessary to enhance the Bureau's duties and functions under this Law.

#### **OTHER STAFF OF THE BUREAU**

- 7 (1) The Bureau may appoint such officers and other employees as it may from time to time, deem necessary for the purposes of the Bureau.
- (2) Subject to the provisions of any Law of the State regulating pensions, the terms and conditions of service (including remuneration, allowances, benefits and pensions) of officers and employees of the Bureau shall be as determined by the Board.
- (3) Without prejudice to the generality of subsection (1) of this section, the Board shall have power in consultation with the Head of Service to appoint either on transfer or on secondment from any public service in the State, such number of employees as may, be required to assist the Bureau in the discharge of its functions under the Law and persons so employed shall be remunerated (including allowances) in accordance with existing remunerations in the public service.

#### **STAFF REGULATIONS**

8. (1) The Board may, subject to the provisions of this Law and within six months of the inauguration, make *staff* regulations relating generally to the conditions of service of the employees of the Bureau and without prejudice to the foregoing, such regulations may provide for:
  - (a) the appointment, promotion and disciplinary control (including dismissal) of employees of the Bureau; and
  - (b) appeals by such employees against dismissal or other disciplinary measures.
- (2) Until such regulations are made, any instrument relating to the conditions of service of officers in the civil service of the State shall be applicable.

#### **PENSION PROVISIONS**

9. Employees of the Bureau shall be entitled to pensions, and other retirement benefits as prescribed under the Law of the State regulating Pensions.

#### **FUNDS OF THE BUREAU**

- 10.** (1) The Bureau shall establish and maintain a Fund, to be approved by the Board into which shall be paid and credited:
- (a) the sums appropriated by the State House of Assembly for the running of the Bureau;
  - (b) all subventions/ fees and charges for services rendered or publications made by the Bureau; and
  - (c) all other assets which may, from time to time, accrue to the Bureau.
- (2) The Bureau shall charge its Fund to meet all its expenditure.
- (3) The Board may make regulations for the Bureau:
- (a) specifying the manner in which assets or the Fund of the Bureau are to be held, and regulating the making of payment into and out of the fund; and
  - (b) requiring the keeping of proper accounts and records for the purposes of the Fund in such form as may be specified in the rules.
- (4) The Bureau may, from time to time, apply the proceeds of the fund for:
- (a) The cost of administration of the Bureau;
  - (b) the payment of salaries, fees and other remuneration of employees of the Bureau, experts or professionals appointed by the Bureau;
  - (c) the maintenance of any property acquired by or vested in the Bureau;
  - (d) any matter connected with all or any of the functions of the Bureau under this Law; and
  - (f) Any expenditure connected with all or any of the functions of the Bureau under this Law.

#### **FINANCIAL YEAR, BUDGETING AND ANNUAL REPORT**

- 11.** (1) The financial year of the Bureau shall be the same as that of the State Government.
- (2) Not later than 6 months before the end of the financial year, the Bureau shall submit to the Governor an estimate of its expenditure and projected income during the next succeeding year.
- (3) The Bureau shall keep proper accounts and records of receipts payments assets and liabilities and shall in respect of each financial year prepare a statement of

account in such form as the Board may direct.

- (4) The Bureau shall within 6 months after the end of the financial year to which the accounts relate cause the accounts to be audited in accordance with guidelines supplied by the Auditor General of the State.
- (5) The Bureau shall at the end of each financial year, prepare and submit to the Governor a report in such form as shall accurately capture all the activities of the Bureau during the preceding year and shall include in the report a copy of the audited accounts of the Bureau for that year.

### **LEGAL PROCEEDINGS**

12. (1) Subject to the provisions of this Law, no suit shall be commenced against the Bureau before the expiration of 30 days after written notice of an intention to commence the suit shall have been served upon the Bureau by the intending claimant, plaintiff or his agent; and the notice shall clearly and explicitly state:
  - (a) the cause of action;
  - (b) the particulars of the claim;
  - (c) the name and address of legal practitioner of the intending Plaintiff; and
  - (d) the relief being sought.
- (2) The members of the Board Director-General of the Bureau, its officers, employees or agents shall not personally be subject to any action claim or demand or liable to any person in respect of anything done or omitted to be done in exercise of any functions or power conferred by this Law.