

DAY ONE EXECUTIVE WORKSHOP

Understanding the Delta State Public Procurement Law 2020

*A Governance & Compliance Briefing for Policy Makers
and State Executive Council Members*

Workshop Agenda

01 Why This Law? Background & Legislative Context

02 Objectives of the Law (Section 9)

03 Principles of Public Procurement

04 Scope of Application

05 Institutional Architecture

06 Qualification of bidders

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08 The Procurement Cycle — Key Processes

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Why This Law? Background & Legislative Context

Part I of the DSPPL 2020

The Problem This Law Solves

- Absence of unified state procurement rules
- Opacity in contract awards — no transparency
- Fragmented processes across MDAs
- Corruption, bid-rigging & collusion
- Poor value for money on public spending
- No independent oversight mechanism

The Law at a Glance

Citation:	Delta State Public Procurement Law, 2020 (No. 5 of 2020)
Commencement:	2020
Scope:	All Ministries, Departments, Agencies, Parastatals, LGAs, Tertiary Institutions & Teaching Hospitals
Regulator:	Delta State Public Procurement Commission
Parent Authority:	The State Council on Public Procurement

Objectives of the Law/Commission

Section 9, Delta State Public Procurement Law 2020

§9(a)

Harmonisation

Harmonise existing government policies & practices on public procurement and ensure probity, accountability and transparency in the procurement process.

§9(b)

Pricing Standards

Establish pricing standards and benchmarks to guard against over-invoicing and inflated contract values.

§9(c)

Fair & Competitive Standards

Ensure fair, competitive, transparent, value-for-money standards and practices for the procurement and disposal of public assets and services.

§9(d)

Professionalism

Attain transparency, competitiveness, cost effectiveness and professionalism in the public sector procurement system.

Principles of Public Procurement

Part I — Foundational Principles, DSPPL 2020



Transparency

Open processes, published awards, accessible records



Competition

Equal opportunity for all eligible bidders



Value for Money

Best result for every Naira of public funds



Accountability

Clear responsibility at every decision point



Efficiency

Timely procurement aligned with budget cycles



Probity

Integrity and impartiality — no conflict of interest

Scope of Application

Part IV, Section 21 — Delta State Public Procurement Law 2020

S. 21(1) — The General Rule

The provisions of this Law apply to all procurement of goods, works and services carried out by the State Government and all procuring entities.

Section 21(1), DSPPL 2020

S. 21(2) — The Exception

This Law does NOT apply to the procurement of Special Goods, Works and Services involving security — unless the Governor's express approval has first been sought and obtained.

Section 21(2), DSPPL 2020

Procuring Entities to Which the Law Applies

- ✓ **All Ministries, Departments and Agencies (MDAs)** — including Extra-Ministerial Departments
- ✓ **All Parastatals and State-owned Enterprises**
- ✓ **All Local Government Councils (LGAs)**
- ✓ **Tertiary Institutions and Teaching Hospitals**
- ✓ **The Delta State House of Assembly and the Judiciary**

Institutional Architecture

Parts I & II — Governance Structure, DSPPL 2020

THE PROCUREMENT COUNCIL

Ss. 3–7 | Part-time Chairman appointed by Governor | 8-Member Body | Apex Policy Authority

DELTA STATE PUBLIC PROCUREMENT COMMISSION (DSPPC)

Ss. 8–11 | Independent Regulatory & Oversight Body | Director-General as CEO and Secretary to the Council

STATE TENDERS BOARD

S. 28 | Constituted by the Procurement Council, confirmed by Governor | Contract award authority at State level

MINISTERIAL TENDERS BOARDS (MTBs)

S. 23/28 | One per Procuring Entity (MDA, LGA, Parastatal) | Contract award authority within MDA-level thresholds



PROCUREMENT PLANNING COMMITTEES

S.27 A Procurement Planning committee for every Procuring Entity

The Procurement Council — Composition & Functions

Section 3 & 5, DSPPL 2020 — A Distinct Statutory Body

MEMBERSHIP (Section 3(2))

8 Members — Council

(a) Part-time Chairman

Appointed by Governor; confirmed by House (S. 3(3))

(b) Attorney-General & Commissioner for Justice

Ex-officio — holds seat by virtue of office

(c) Commissioner for Finance

Ex-officio — holds seat by virtue of office

(d) Commissioner for Economic Planning

Ex-officio — holds seat by virtue of office

(e) Chief Economic Adviser to the Governor

Ex-officio — holds seat by virtue of office

(f) Member — Civil Society Organization

Appointed by Governor; confirmed by House

(g) Member — CIPS (Chartered Institute)

Appointed by Governor; confirmed by House

(h) Director-General, DSPPC

Ex-officio — also serves as Secretary to Council (S. 7)

FUNCTIONS (Section 5)

S. 5(a)

Approve & amend monetary thresholds and prior review thresholds for all procuring entities

S. 5(b)

Consider and approve policies on Public Procurement

S. 5(c)

Consider the appointment of Directors of the Commission

S. 5(d)

Receive and approve the audited accounts of the Commission

S. 5(e)

Approve changes in the procurement process to adapt to modern technology

S. 5(f)

Give directives and perform other functions necessary to achieve the Law's objectives

S. 28(2)

Constitute the State Tenders Board (subject to Governor's confirmation)

S. 6(1)

Meet at least once each quarter of the year

S. 6(4)

Reach decisions by two-thirds majority; Chairman has casting vote on a tie

MEMBERSHIP OF The State Procurement Council

Understanding the Distinction — DSPPL 2020

PROCUREMENT COUNCIL

Section 3, DSPPL 2020

- 8 Members only (S. 3(2))
- Part-time Chairman (not the Governor)
- A specialist statutory body created SOLELY for procurement governance
- Sets procurement policy and thresholds
- Constitutes the State Tenders Board
- Approves the Commission's accounts and Director appointments
- Meets quarterly (minimum)
- Decisions by 2/3 majority

3 SHARED MEMBERS

*AG
Finance
Econ Plan*

Operations

- Council Shall meet at least once in a Quarter
- Meetings of the Council may be convened in writing by the Chairman or at least two –third majority of members
- Council has powers to make regulations to guide the holding of its meetings , notices for meeting, proceedings, minutes or any thing pertaining to its meetings.
- Decisions shall be by the vote of two-third majority of members present in a meeting
- The Chairman has a casting vote in case of a tie
- Executive Council members who are NOT on the Procurement Council have no procurement governance function under the law

Functions and Powers of the Commission (DSPPC)

Sections 10 and 11, DSPPL 2020 — Delta State Public Procurement Commission

Functions of the Commission (S. 10)

- Formulate general procurement policies and guidelines for Council approval (S. 10(a))
- Certify procurements and issue Certificates of No Objection prior to contract award (S. 10(c))
- Monitor prices of tendered items and maintain the State price database (S. 10(e))
- Maintain a State database and categorisation of all contractors and service providers (S. 10(h))
- Prepare and update standard bidding and contract documents (S. 10(m))
- Prevent fraudulent procurement and apply administrative sanctions (S. 10(n))
- Conduct annual procurement audits and submit report to the Governor and House (S. 10(p))
- Serve as Secretariat to the Procurement Council (S. 11(2))

Powers of the Commission (S. 11)

- Enforce monetary and prior review thresholds set by the Council (S. 11(1)(a))
- Issue Certificates of No Objection for contract award within the prior review threshold (S. 11(1)(b))
- Inspect or review any procurement transaction to determine compliance (S. 11(1)(d))
- Debar any supplier, contractor or service provider that contravenes this Law (S. 11(1)(e))
- Recommend to the Council for suspension or replacement of errant officers and procuring entities (S. 11(1)(h))
- Nullify any procurement proceeding or award made in contravention of this Law (S. 11(1)(k))
- Act upon complaints in accordance with procedures set out in this Law (S. 11(1)(j))
- Enter contracts and liaise with international procurement bodies, subject to Council approval (S. 11(3))

The Procurement Cycle — Key Processes

Ss. 24–25, DSPPL 2020



Critical Compliance Points for Procuring Entities

- All procurements must follow a Procurement Plan integrated into the annual budget (S. 24(v))
- Certificate of No Objection from DSPPC is mandatory before contract award above threshold (S. 25(g))
- All contract agreements must be executed through the State Ministry of Justice (S. 25(h))
- Awards must be publicly announced in the format stipulated by the Commission (S. 25(j))

Procurement Methods

Part VII (Ss. 30, 45–49) & Part VIII — DSPPL 2020 | Thresholds: DSPPC Guidelines No. 1 of 2020, First Schedule, Table C

Open Competitive Bidding

Section 30(1), DSPPL 2020

- Default method for ALL procurement of goods, works and services
- Equal, simultaneous information and opportunity for all interested bidders
- Winner: lowest evaluated responsive bid
- Advertised in national newspaper, state newspaper and procurement journal — at least 2 weeks before

Request for Quotations (RFQ)

Section 47, DSPPL 2020

- For low-value procurements not exceeding the threshold in the Guidelines
- Minimum 3 quotations from unrelated suppliers; each supplier gives only one quotation
- Award to the lowest priced responsive quotation
- Commission approval not required below the Guidelines threshold (S. 47(6))

Two-Stage Tendering

Section 45, DSPPL 2020

- Used where specifications cannot be fully defined upfront, or are subject to rapid technological change
- Stage 1: technical proposals without price; negotiations permitted
- Stage 2: final tenders with prices on agreed specifications; evaluated as open competitive bid
- Also available where prior open

Direct Procurement

Section 48, DSPPL 2020 — Exceptional Use Only

- Sole-source or exclusive-rights situation — no reasonable alternative exists
- Urgent need arising from unforeseeable circumstances (not caused by the procuring entity's own default)
- Follow-on contract for compatible goods or equipment from the original supplier

Selective Tendering

Section 46, DSPPL 2020

- Used where goods, works or services are available from a limited number of suppliers, or where evaluating a large field would be disproportionate to the value
- Pre-qualified bidders only; notice published in the procurement journal
- Selection must be non-discriminatory; open competitive bidding rules apply

Emergency Procurement

Section 49, DSPPL 2020

- State threatened by disaster, epidemic, pandemic, war, act of God or deterioration of critical public assets
- Direct contracting of goods, works and services is permitted
- Accountability principles still apply; after cessation, a detailed report must be filed with the Commission for verification and Certificate of No Objection (S. 49(4))

Applicable Thresholds by Procurement Method

First Schedule, Table C — Monetary & Prior Review Thresholds, Procurement Methods Guidelines No. 1 of 2020 (DSPPC Guidelines)

Procurement Method	Goods	Works	Non-Consultant Services
Int'l / National Competitive Bidding (ICB/NCB)	₦1.5 Billion+	₦1.5 Billion+	₦1.5 Billion+
National Competitive Bidding (NCB)	₦20M – <₦1.5B	₦50M – <₦1.5B	₦20M – <₦1.5B
Selective Tendering	₦10M – <₦20M	₦10M – <₦50M	₦10M – <₦20M
Request for Quotations (RFQ)	₦1M – <₦10M	₦1M – <₦10M	₦1M – <₦10M
Direct Procurement	As provided in Law	As provided in Law	As provided in Law
Emergency Procurement	As provided in Law	As provided in Law	As provided in Law

General Qualification Requirements for Bidders

Section 22(6), DSPPL 2020 — Mandatory Requirements Applicable to All Bidders

Capacity & Standing Requirements

- **S. 22(6)(a)** Professional and technical qualifications; financial capability; equipment and relevant infrastructure
- **S. 22(6)(b)** Adequate personnel to perform the procurement contract obligations
- **S. 22(6)(c)** Legal capacity to enter into the procurement contract
- **S. 22(6)(d)** Not in receivership, insolvency, bankruptcy or winding-up proceedings
- **S. 22(6)(e)** All tax, pension and social security obligations fulfilled

Integrity & Disclosure Requirements

- **S. 22(6)(f)** No Director convicted in any country for fraud, financial impropriety or criminal misrepresentation
- **S. 22(6)(g)** Affidavit disclosing pecuniary interest of procurement officers or Commission members in the bidder; and confirming bid truthfulness
- **S. 22(6)(h)** Certificate of registration or incorporation with the Corporate Affairs Commission
- **S. 22(6)(i)** Any other requirements stated in the standard bidding document

Selection of Winner — Goods and Works Contracts

Sections 22(17) and 38, DSPPL 2020 — The Lowest Evaluated Responsive Bid Standard

The Primary Rule (S. 22(17)): A contract shall be awarded to the **lowest evaluated responsive bid** from bidders substantially responsive to the bid solicitation.

Evaluation Process (S. 38(3))

- Check for deviations and omissions
- Apply discounts as applicable
- Quantify minor deviations in monetary terms
- Convert to common currency
- Apply domestic preference margin where applicable
- Rank bids and post-qualify where applicable

Goods — Additional Factors (S. 38(5)(a))

- Transportation and insurance costs
- Payment schedule and delivery time
- Operating costs and efficiency
- Compatibility; availability of services and spare parts
- Safety; environmental benefits or losses

Commission Oversight Rules

- Only criteria pre-stated in the solicitation documents may be used in evaluation (S. 38(1))
- The Commission may refuse the Certificate of No Objection if the price is excessive (S. 22(18))
- Evaluation criteria shall not change once procurement proceedings commence (S. 22(15))
- The Commission may direct cancellation or re-tender where the price is excessive (S. 22(19))

Selection of a Winning Proposal — Consultancy Services

Part IX, Section 57(6), DSPPL 2020 — Quality and Cost Based Selection

S. 57(6)(a) — QCBS

The proposal with the **best combined evaluation** on quality and cost (Quality and Cost Based Selection)

S. 57(6)(b) — LCS

The proposal with the **best evaluated price** in the case of least-cost selection (LCS)

S. 57(6)(c) — QBS

The **highest ranked technical proposal** within the budget (Quality Based Selection)

Key Procedural Rules for Consultant Selection (S. 57)

- Technical and financial proposals are submitted simultaneously in separate sealed envelopes; technical proposals are opened first and evaluated while financial proposals remain sealed (S. 54(2)(4)).
- Consultants below the minimum qualifying technical score are notified within 14 working days of the evaluation decision (S. 57(3)).
- Quality scores and financial proposals of qualifying consultants are read aloud at the public opening; minutes are recorded and retained (S. 57(4)(5)).
- The winning consultant is invited for negotiations focused on the technical proposal; staff-month rates and reimbursables are not normally renegotiated (S. 57(7)(8)).

Standard Bidding Documents — Benefits to Delta State

Section 10(m), DSPPL 2020 — DSPPC's Mandate to Prepare & Update Standard Documents

S. 10(m) mandates the DSPPC to prepare and update Standard Bidding Documents (SBDs) and standard contract documents for use across ALL procuring entities in Delta State.



Uniformity & Consistency

Every MDA uses the same template — eliminating bespoke documents that are vehicles for corruption and exclusion of qualified bidders.



Reduced Corruption & Manipulation

Standardised criteria make it harder to tailor documents to favour pre-selected contractors. Non-compliant modifications are immediately identifiable.



Efficiency & Speed

MDAs no longer draft documents from scratch. Time and professional cost savings across hundreds of annual procurements translate directly into budget efficiency.



Wider Bidder Participation

Familiar, predictable formats attract a larger, more competitive pool of bidders — driving prices down and quality up across all State contracts.



Legal Certainty & Dispute Reduction

DSPPC-issued SBDs carry the Commission's legal authority. Procurements using approved SBDs are more defensible. Clear terms reduce post-award disputes.



Price Benchmarking & Value for Money

Standardised specifications enable DSPPC to compare prices across all MDAs, build the State price database (S. 10(e)), and detect over-invoicing state-wide.

Conflict of Interest — What Every Policy Maker Must Know

S. 63, DSPPL 2020

A procurement officer or decision-maker has a conflict of interest if they:

- S. 63(a) Have a personal financial interest in any company tendering for a contract
- S. 63(b) Are a spouse, parent, child or business partner of a tender participant
- S. 63(c) Were an employee of a bidder within the preceding 12 months
- S. 63(d) Place the procuring entity in an embarrassing or ethically questionable position
- S. 63(f) Receive any personal benefit from a procurement opportunity
- S. 63(g) Create personal revenue using public property
- S. 63(h) Disclose confidential procurement information to an unauthorised person

⚠ ANY decision-maker with a conflict of interest MUST recuse themselves immediately and disclose in writing. Failure to do so is an offence under S. 64. Also: a person involved in disposal of assets may NOT buy those assets directly or indirectly for THREE YEARS after disposal (S. 63(11)).

Disposal of Public Assets

Part XI, Sections 61–62, DSPPL 2020 — Every Procuring Entity is also a Disposing Entity

Primary Method (S. 61(2)): **Open or selective competitive bidding** is the primary method for receiving offers for the purchase of any public property offered for sale.

What is Public Property? (S. 61(4))

- Assets created through public expenditure
- Acquired as a gift through deeds
- Acquired in respect of intellectual or proprietary rights
- Acquired on financial instruments (shares, stocks, bonds, etc.)
- Acquired by goodwill or other gifts of the State Government

Covers both serviceable and unserviceable assets, tangible and intangible

The Commission's Role (S. 61(3))

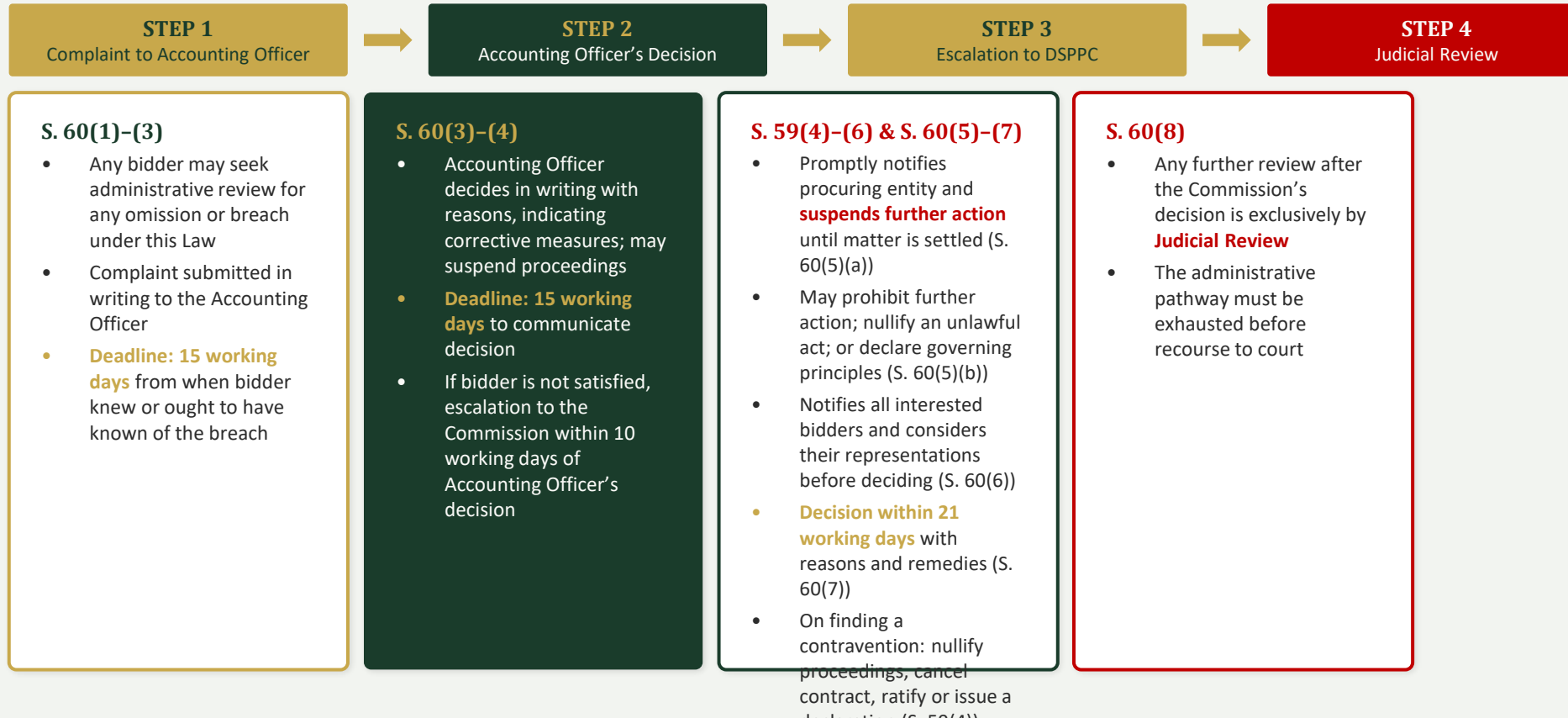
- Determines applicable policies and practices for the disposal of all public property (with Council approval)
- Issues operational guidelines and organisational modalities binding on all procuring entities engaged in disposal
- Issues standardised disposal documents, monitors implementation, enforces compliance and sets reporting standards

Planning & Process Rules (S. 62)

- Before any disposal, the Accounting Officer must commission an independent valuation report by a qualified evaluator (S. 62(1))
- Disposal must be planned and integrated into the income and expenditure budget projection of the procuring entity (S. 62(2))
- Disposal must be timed to maximise revenue to Government (S. 62(3))
- Responsibilities distributed between the procurement unit and the Tenders Board (S. 62(4))
- **Conflict of interest bar:** a person involved in disposal may not purchase those assets, directly or indirectly, for **THREE YEARS** after disposal (S. 63(11))

Administrative Complaint Mechanism

Sections 59(4)–(6) and 60, DSPPL 2020 — Part X: Procurement Surveillance and Review



Infractions, Offences & Sanctions

Part XIII — Ss. 63–64, DSPPL 2020

OFFENCES UNDER THE LAW (S. 64(3))

- Collusive tendering — agreements to fix bid prices
- Procurement fraud — bribery, corruption, undue influence
- Improper influence on the procurement process for personal gain
- Splitting tenders to evade monetary thresholds
- Bid rigging
- Altering procurement documents to influence outcomes
- Using or encouraging the use of fake documents
- Willful refusal to grant the Commission access to procurement records

Non-Public Officer (S. 64(1))

Conviction → Imprisonment 5–10 years
OR Fine of ₦500,000

*Tried by the High Court of Delta State
with AG's written consent (S. 64(2))*

Public Officer / Commission Officer (S. 64(4))

Conviction → 5 years imprisonment (or fine)
+ Summary dismissal from government service

Corporate Body (S. 64(5)): Debarment (≥5 yrs) + Fine = Value of Contract

Key Takeaways & Obligations

1

The law applies to ALL procuring entities in Delta State — no MDA, University, or Teaching Hospital is exempt.

2

Council members set POLICY. They do not award contracts. Any operational interference is an infraction.

3

The DSPPC Certificate of No Objection is not optional — it is a legal precondition to every contract award above threshold.

4

Threshold-splitting to evade monetary limits is a criminal offence under S. 64(3)(d).

5

Conflict of interest must be declared and the affected person must recuse — the duty is personal and non-delegable.

6

Procurement sanctions are cumulative: public officers face imprisonment AND dismissal. Corporate bodies face debarment AND fines.

Questions & Discussion

ASK NOW

A & E Law Partnership | Public Procurement Practice Group | Abuja, Nigeria

Governing Law: Delta State Public Procurement Law 2020 (No. 5 of 2020) & Regulations issued thereunder