



PROCUREMENT GUIDELINES

DELTA STATE PUBLIC PROCUREMENT COMMISSION





DELTA STATE GOVERNMENT
DELTA STATE PUBLIC PROCUREMENT COMMISSION

PROCUREMENT GUIDELINES

FOR

**MONETARY & PRIOR REVIEW THRESHOLDS,
PROCUREMENT METHODS AND OTHER
RELATED MATTERS.**

CONTENTS

TITLE	PAGES
Short Title and Commencement	1
Interpretation and Application	1
Annual Procurement Plan	1
Prior Review Threshold	2
Procedure for Issuance Certificate of No-Objection	2
Issuance of Certificate of No Objection	2
Appeals and Remedies for Non-Issuance of Certificate	4
Certificate of No Objection to be Sent to Procuring Entity	4
Issuance of Letter of Award	5
Forwarding of List of Certificates of No Objection to Ministry of Justice	5
Conveyance of Letter of Award to Ministry of Justice	5
Preparation of Agreement by Ministry of Justice	5
Ministry of Justice to inform Commission on execution of Agreement	5
Commission to Inform Ministry of Finance on Execution of Agreement	5
Bid Security	5
Ministerial Tenders Board Composition	6
Procedure for Procurement below Threshold	6
E-procurement to use During period of Emergency	7
First Schedule	8
Second Schedule	9

In the exercise of the powers granted to it under the Delta State Public Procurement Law 2020, the Delta State Public Procurement Council hereby makes the following Guidelines:

PART I

1. These Guidelines may be cited as the Monetary & Prior Review Thresholds, Procurement Methods and Other Related Matters Guidelines, 2020 (DSPPC Guidelines No 1 of 2020) and shall come into force on the of 2020. Short title and commencement
2. In these Guidelines, unless the context otherwise requires: Interpretation

Interpretation. “**Accounting Officer**” means the Accounting Officer as defined in the Delta State Public Procurement Law, 2020.

“**Beneficiary**” means any contractor, supplier or service provider as defined in the Law who is proposed by a procuring entity as the winner of a bid proceeding and who may be entitled to a procurement contract.

“**Council**” means the Delta State Public Procurement Council as established in the Delta State Public Procurement Law, 2020.

“**Commission**” means the Delta State Public Procurement Commission as established in the Delta State Public Procurement Law, 2020.

“**Certificate of No Objection**” means the certificate of no objection to award of contract as provided for in the Delta State Public Procurement Law, 2020.

“**Procuring Entity**” means procuring entities as defined in the Delta State Public Procurement Law, 2020.

“**Procurement**” means procurement as defined in the Delta State Public Procurement Law, 2020.

“**Law**” means the Delta State Public Procurement Law, 2020.
3. (1) These Guidelines shall apply to all procurements by procuring entities in Application. the State except where exemption is granted by the Law.

(2) The provisions of these Guidelines shall not apply to the procurement of special goods, works and services involving security or the institution and defence of any Legal action undertaken in the interest of the State unless the Governor’s express approval has been first sought and obtained.
4. All procurements shall be undertaken within the approved budget of the procuring entity and be based on Annual Procurement Plan approved by the Accounting Officer of a procuring entity and in accordance with the provisions of the Law and all Financial Regulations in force in the State. Annual Procurement Plan

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| <p>5. The Council hereby sets the prior review thresholds for procurement transactions and the post review threshold as follows:</p> <p>a) All procurements of monetary value up to twenty-five million naira (₦25,000,000) only including less than this amount shall be subject to post review by the Commission.</p> <p>b) Any procurement where the monetary. value exceeds 25 million naira (₦25,000,000) only, shall be subject to prior review and certification by the Commission,</p> | <p>Prior Review
Threshold</p> |
| <p>6. Where procurement is subject to prior review, the procuring entity must obtain a Certificate of No Objection to award of the contract from the Delta State Public Procurement Commission as stipulated under the Law.</p> | <p>Procedure for
Certificate of No
Objection</p> |
| <p>7. (1) A Certificate of No' Objection to award of contract, shall be issued in all cases by the Director-General of the Commission within a maximum period of 2 weeks from the date of receipt of a first application by a procuring entity except in exceptional circumstances:</p> <p>a) For Procurements involving technical inputs of a scientific nature, only upon a written recommendation approving issuance and expressed on the face of such certificate by the Director of the Department of the Commission responsible for Technical and Evaluation within four (4) working days from the receipt of a first application and after; an assessment of the reasonableness of work materials, measurements and standards, prevention of purchase of air and required materials of the proposed procurement. The Director-General of the Commission may deny the issuance, of a certificate under the provisions of this section where there is a recommendation showing over bloated materials and measurement, questionable standards and specification of materials or an intent to purchase air from the proposed procurement.</p> <p>b) Only upon a written recommendation approving its issuance and expressed on the face of such certificate by the Director of the Department of the Commission responsible for Procurement Planning and Research within four (4) working days from the receipt of a first application and after; an assessment of the reasonableness of the Prices and a confirmation of value for money of the proposed procurement. The Director-General of the Commission may deny the issuance of a certificate under the provisions of this' section where there is a recommendation showing unreasonable prices or that value for money may not be achieved from the proposed procurement.</p> | <p>Issuance of
Certificate of
No Objection</p> |

- c) Only upon a written recommendation approving its issuance and expressed on the face of such certificate by the Director of the Department of the Commission responsible for Administration and Legal Services within four (4) working days of receipt of a first application and after; an assessment of due compliance with the procedures and processes for procurements as stipulated under the provisions of the, Law, Procurement Regulation, Guidelines, Manual or any document deriving therefrom, provided it shall be sufficient to make such a recommendation upon an opinion of substantial compliance
- (2). The Commission and the relevant procuring entity shall for the purpose of an assessment under section 7(1)(a) of these Guidelines, develop a Standard Bidding Document (SBD) of items to be procured in the contract which shall serve as a guide to Bidders and procuring entities for preparation of bid documents, bid evaluations, projects monitoring, prevention of fraud, establishment of standards and presentation of items to be priced in procurement proceedings undertaken by any procuring entity.
- (3). The Commission shall for the purpose of an assessment under section 7(1)(b) of these Guidelines, develop a detailed price list of current market prices of items procured in the State which shall serve as an average standard for the determination of appropriate prices in procurement proceedings undertaken by any procuring entity. The Commission shall make this list available to each procuring entity and:
- a) Where it has developed a detailed price list in accordance with this section of the Guidelines, it shall cause the list to be sent to the Public Procurement Council which shall on receipt either wholly “approve” it or “approve with adjustments to price” upon which the price list shall become a working document for purposes of these Guidelines.
 - b) Where pursuant to section 7(3)(a) of these Guidelines and within a period of 30 (thirty) working days neither approval is provided for have been granted, the price list as proposed shall be deemed approved and shall become a working document for purposes of these Guidelines.
 - c) The approved price list of current market prices shall form the basis for assessment pursuant to section 7(1) (b) of these Guidelines and where such price list has not been developed, approved or does not contain details sufficient to determine the question of value for money as regards a particular procurement, the requirements of section 7(1)(b) shall be deemed suspended as regards the procedure for the issuance of a certificate under these Guidelines.

(4). Where pursuant to section 7(1) (a), or (b) or (c) of these Guidelines, a recommendation for a denial of a Certificate of No Objection has been made by a Department and there exist a concurrent recommendation approving its issuance by another or other Departments, the Director-general shall cause a statement of the reasons for denial to be forwarded to the procuring entity. In addition, where:

- a) A procuring entity which receives a statement of denial pursuant to section 7(4) of these Guidelines may choose to make a second application for a “certificate of no-objection” to award of contract after a modification of the reason(s) for such non-compliance to become compliant.
- b) Where a second application pursuant to section 7 of these Guidelines is received by the Commission, the procedures contained at section 7(1)(a)(b) (c) shall again be adopted. Where a second application is denied, it shall be accompanied by a recommendation to the Director-General of the Commission on such remedies, if any, which shall be in accordance with the provisions of the Law and these Guidelines.

8. (1) A procuring entity dissatisfied with any decision made pursuant to the provisions of section 7 of these Guidelines shall be entitled to make a written complaint to the Commission in such a manner as to give specific details of the particular decision complained against, the Department responsible for the. complaint accompanied by the file to which the complaint relates.

Appeals and
Remedies

(2) The Department complained against shall within 14 (fourteen) working. days of the receipt of the documents of complaint prepare a defence and forward the same to the Director-General of the Commission who shall then cause the complaint, defence and further documents to be forwarded to the Procurement Council.

(3). The Council shall upon, receipt of such complaint and defence thereof, give any Order as shall be consistent with the provisions of the Law or these Guidelines.

(4) The procedure adopted for issuance of a certificate of no objection to contract award at paragraphs 7(1) shall apply to approvals made by the Commission pursuant to section 45(1) of the Law to the extent that these Guidelines allow for consistence with the provisions of the Law.

(5) Any certificate issued other than in accordance with the provisions of these Guidelines shall be null and void.

9. The Commission shall upon the approval of a Certificate of No Objection to award of contract, cause a copy of the certificate to. be sent to the relevant procuring entity

Certificate of No
Objection to be sent
to procuring entity

which shall thereupon issue a letter of award of contract to the beneficiary of the award.

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| <p>10. The letter of award mentioned at section 9 of these Guidelines, shall be issued by the procuring entity to the beneficiary and expressed on its face as “subject to a written contract prepared and executed through the State Ministry of Justice. The letter of award shall be accompanied by all contractual terms required to be contained and imputed in the proposed contract including the delivery time of the goods, works and service.</p> | <p>Issuance of Letter of Award</p> |
| <p>11. The Commission shall at the end of every week prepare a list of all Certificates of No Objection to contract award as issued, and forward this list to the State Ministry of Justice.</p> | <p>Forwarding of list of Certificates of No Objection to Ministry of Justice</p> |
| <p>12. The procuring entity shall upon issuing the beneficiary with a letter of award in accordance with section 10 of these Guidelines, immediately convey a counterpart copy of the Letter of Award to the State Ministry of Justice.</p> | <p>Conveyance of letter of Award to Ministry of Justice</p> |
| <p>13. The State Ministry of Justice shall upon the receipt of the letter of award from a procuring entity and determination that a Certificate of No Objection has been issued thereof, prepare and cause to be executed a written contract in favour of the beneficiary of the award.</p> | <p>Preparation of Agreement by Ministry of Justice</p> |
| <p>14. The State Ministry of Justice shall within ten (10) working days of the completion of the execution of such contracts inform the Commission in writing of such execution accordingly and shall include the serial number of the Certificate of No Objection.</p> | <p>Ministry of Justice to inform Commission on execution of agreement</p> |
| <p>15. The Commission shall on receipt of the information in section 14 of these Guidelines, and upon its verification immediately within a period of 3(three) working days, communicate same to the State Ministry of Finance.</p> | <p>Commission to inform Ministry of Finance on Execution of Agreement.</p> |
| <p>16. The legal requirement that all bids shall be accompanied by a bid security may be waived or the terms and conditions of the required bid security may be reduced in the tender documents, by:</p> <ul style="list-style-type: none"> a) procuring entity, for procurements falling below the prior review thresholds, or by; b) the Commission: <ul style="list-style-type: none"> i. to encourage the participation Of SMEs under State Competitive Bidding or; ii. during a period where the State is seriously threatened by or actually confronted with a challenge which is either economic, social, legal in | <p>Bid Security</p> |

nature, disaster, epidemic, pandemic, catastrophe, war, insurrection, or act of God; or

iii. where it determines that it is in the interest of the State to do so.

17. The Ministerial Tenders Board for each procuring entity shall be composed Ministerial as follows:

Ministerial
Tenders Board
Composition

- (a) For procuring entities with established Departments:
 - i. The Accounting Officer who, shall be the Chairman.
 - ii. The Head of the Department responsible for procurement who shall be the secretary.
 - iii. All Heads of the various Departments.
 - iv. The Head of the Unit directly in need of the particular procurement.
 - v. A State Counsel as shall be directed by the Attorney-General of the State.
 - vi. A Representation of Civil Societies Organization (CSO).
- (b) For procuring entities without established Departments:
 - i. The Accounting Officer who shall be the Chairman.
 - ii. The Head of personnel responsible for procurement who shall be the secretary.
 - iii. The Head of the unit directly in need of the procurement.
 - iv. A State Counsel as shall be directed by the Attorney-General of the State.
- (c) All meetings of Tenders Board shall contain a minute and the secretary of the Ministerial Tender's Board shall cause the minutes of the procurement proceeding to be circulated to all members of the Board.
- (d) The minutes of meeting of the Ministerial Tenders Board shall be written to reflect the matters discussed, members' resolution, and signed by each member of the Board.
- (e) The decision of the Ministerial Tenders Board shall be communicated in writing to the Honourable Commissioner or the most senior public officer of the procuring entity who is responsible for implementation.
- (f) Provided that where the Law, Regulation or Guidelines of a procuring entity makes express provision for the composition the Ministerial Tenders Board, its provisions shall prevail.

18. For procurements below the, prior review & monetary threshold, the Tenders Board of a procuring entity must undertake a review of the procurements in accordance with the Law and in a manner which shall involve:

Procedure for
Procurement
below Threshold

- (a) an assessment of compliance with the process for procurement stipulated in the Law and any implementing regulation or Guidelines for the time being in force;
- (b) a confirmation of the capacity of the proposed contractor to perform the contract with respect to technical competence of personnel and availability of equipment;
- (c) an assessment of the fitness for purpose of the project, where applicable;
- (d) an ascertainment of the reasonableness of the price;
- (e) a confirmation of value for money from the proposed procurement; and
- (f) a determination of the terms of contract and time frame for expected goods, works or service delivery which shall be attached to the letter of award.

19. (1) For procurement during a period emergency, where the State is either seriously threatened by or actually confronted with a challenge which is economic, social, legal in nature, disaster, epidemic, pandemic, catastrophe, war, insurrection, or act of God during which period there is restriction of movement, procuring entities may undertake procurements through available e-procurement platforms of the State and other electronic medium as may be appropriate.

E-procurement to use during period of Emergency

(2) While the afore-mentioned emergency situations persist, an enhancement policy shall be adopted to increase SMEs participation in Government contracts.

(3) Pursuant to subsection 2 above, a percentage of Government contracts by procurement entities below a monetary threshold shall be reserved by the Commission through circulars for SME's, subject to the approval of the State Executive Council.

20. Any procurement validly undertaken in accordance with any previous guidelines prior to the commencement date of this and Guidelines shall remain valid and not be governed by the provisions of these Guidelines and shall be continued to completion.

FIRST SCHEDULE

TABLES

Monetary and Prior Review and Procurement Method Thresholds [Guidelines 1]

A. Monetary Thresholds

Approving body	Goods	Works	Non-Consultant Services	Consultant Services
State Tenders Board	₦250 million and above	₦250 million and above	₦250 million and above	₦250 million and above
Ministerial Tenders Board	Less than ₦250 million	Less than ₦250 million	Less than ₦250 million	Less than ₦250 million

B. Applicable Prior Review Thresholds:

Type of Review	Goods	Works	Non-Consultant Services	Consultant Services
Prior review for issuance of certificate of no objection	₦25 million and above	₦25 million and above	₦25 million and above	₦25 million and above

C. Applicable Thresholds for Procurement Method:

Procurement Method	Goods	Works	Non-Consultant Services
International Competitive bidding/National Competitive Bidding Method	₦1.5 billion and above	₦1.5 billion and above	₦1.5 billion and above
National Competitive Bidding Method	₦20 million and above but less than ₦1.5 billion	₦50 million and above	₦20 million and above but less than ₦1.5 billion
Selective Tendering Method	₦10 million and above but less than ₦20 million	₦10 million and above but less than ₦50 million	₦10 million and above but less than ₦20 million
Request for Quotations	₦1 million and above but less than ₦10 million	₦1 million and above but less than ₦10 million	₦1 million and above but less than ₦10 million
Direct Procurement Method	As provided in the Law	As provided in the Law	As provided in the Law
Emergency Procurement Method	As provided in the Law	As provided in the Law	As provided in the Law

SECOND SCHEDULE

FORM A

1st APPLICATION FOR “CERTIFICATE OF NO OBJECTION” TO AWARD OF CONTRACT [Guidelines 7(1)]

Our Ref:

To: The Director-General
Delta State Public Procurement Commission

(Full address of procuring entity)

(Name of procuring entity)

The _____

wish to apply for a Certificate of no objection to award of contract in respect of the

procurement proceedings in _____ *(File No/Description of Project)*

and in favour of _____ *(Name of Beneficiary)*

which project delivery period shall be _____ *(Estimated project delivery period)*.

The following accompanying documents are hereby attached for purposes of this Application;

Form A CONTINUED

- 1)
- 2)
- 3)
- e.t.c

Signature of Accounting
Officer of Procuring Entity

Name in Full: _____

FORM B

ISSUANCE OF “CERTIFICATE OF NO OBJECTION” TO CONTRACT AWARD

[Guideline 9(1)]

Certificate No:

Your ref:

Our ref:

**ISSUANCE OF “CERTIFICATE OF NO OBJECTION” TO AWARD OF
CONTRACT**

Your request for an issuance of certificate of no objection to award of contract by the
commission in respect of _____
(*File Number/Description of Project*)

in favour of _____
(*Name of Beneficiary*)

is hereby:

Recommended to be: _____/_____

STAMP

tick as appropriate (Approved/Denied)/(Signature)
Director, Department of (Name of Department)

REASONS

Recommended to be: _____/_____

STAMP

tick as appropriate (Approved/Denied)/(Signature)
Director, Department of (Name of Department)

tick as appropriate _____
(Approved/Denied)/
DIRECTOR-GENERAL

FORM C

**2ND APPLICATION FOR “CERTIFICATE OF NO OBJECTION” TO AWARD OF
CONTRACT**

[REGULATION 7(3) (A)]

Your Ref:

Our Ref:

To: The Director-General
Delta State Public Procurement Commission

(Full address of procuring entity)

The _____ *(Name of procuring entity)*

hereby applies for a Certificate of No Objection to award of contract in respect of the
procurement proceedings in _____ *(File No/Description of Project)*

and in favour of _____ *(Name of Beneficiary)*

which project delivery period shall be _____ *(Estimated project delivery period)*

The following accompanying documents are hereby attached for purposes of this
application:

- 1)
- 2)
- 3)
- e.t.c

Signature of Accounting Officer
Of Procuring Entity

Name in Full: _____

Dated at Asaba this _____ Day of _____, 2020.

CHAIRMAN OF DELTA STATE PUBLIC PROCUREMENT COUNCIL