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Challenges to CSO Monitoring and Observation


- › Lack of capacity
  - Knowledge
  - Skills
  - Resources
  - Institutional Foundation
- › Resistance /Lack of Political Will
  - Ignorance
  - Established practices of secrecy
  - ill motive

Speaker Notes

The speaker discusses the challenges to CSO Monitoring and Observation:

- ? Lack of capacity on the part of the procurement officials
  - o Knowledge
  - o Skills
  - o Resources
  - o Institutional Foundation
- ? Resistance /Lack of Political Will to do the right thing
  - o Ignorance
  - o Established practices of secrecy
  - o Ill motive (as a result of conflict of interest and corruption)

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### The National Procurement Watch Platform


- In response to these challenges PPDC launched Its PACT Nigeria supported Procurement Watch Program.
- In collaboration with other CSO's this program established the NPWP.
- Made up of NGO's, Professional Bodies, and Private Sector Associations
- In addition to strong pressure on government to begin implementation of this Act, the Platform secured BPP directive for all MDA's to begin inviting CSO's to observe the process, developed a code of conduct for procurement observers and a checklist for observers monitoring and reporting.
- CSO's with strong integrity values are invited to join

## Speaker Notes

The speaker discusses the work of the National Procurement Watch Platform (NPWP):

- In response to these challenges PPDC launched Its PACT Nigeria supported Procurement Watch Program.
- In collaboration with other CSO's this program established the NPWP.
- Made up of NGO's, Professional Bodies, and Private Sector Associations
- In addition to strong pressure on government to begin implementation of this Act, the Platform secured BPP directive for all MDA's to begin inviting CSO's to observe the process, developed a code of conduct for procurement observers and a checklist for observers monitoring and reporting.
- CSO's with strong integrity values are invited to join

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### CONCLUSION

- Every citizen of Nigeria has a role, duty and obligation under this act
- A system like this one should help the federal government to work better with contractors, complete more projects, allow only reasonable profits, achieve value for money, create jobs, improve infrastructure and the lives of our citizens.
- If procurement reforms fail... The blame of failure will go round

Speaker Notes: Conclusion on Non state Actors

The speaker concludes the presentation as follows:

- Every citizen of Nigeria has a role, duty and obligation under this act
- A system like this one should help the federal government to work better with contractors, complete more projects, allow only reasonable profits, achieve value for money, create jobs, improve infrastructure and the lives of our citizens.
- If procurement reforms fail... The blame of failure will go round

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Speaker Notes

NO COMMENTS.

## 10.0 MODULE X: OBSERVERS' CODE OF CONDUCT

### *10.1 Module Objectives*

#### 10.1.1 Rationale

The PPA2007 provides for observers to evaluate every stage of the procurement processes to ascertain their compliance with the provisions of the Act itself. A code of conduct is necessary to ensure that all observers and monitors operate with same values and ethics.

#### 10.1.2 Objective

The objective of this module is to educate participants on the provisions of the Code of Conduct and prepare their minds for the kind of oath of allegiance they will be required to take before they get involved in Public Procurement.

This knowledge will provide them a deeper understanding of the public procurement system in Nigeria they may observe during the monitoring of various MDAs as they undertake their annual procurement activities.

### *10.2 Module Programme*

The module programme covers the objects of the Code of Conduct, compliance with the Code of Conduct, oath of allegiance for Public Procurement Observers and qualification of Public Procurement Observers.

### *10.3 Module Reading*

#### 10.3.1 Essential reading

- 1) Public Procurement Act 2007
- 2) Code of Conduct for Observers

#### 10.3.2 Further reading

Procurement Procedures Manual for Public Procurement in Nigeria issued by the BPP

## 10.4 Module Content

### Slide 1

#### OBSERVER'S CODE OF CONDUCT

#### Speaker Notes

This lecture presents an overview of procurement observers Code of Conduct.

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#### Objects of the Code

- The idea of the Code of Conduct for Public Procurement Observers is to ensure:
- Transparency and accountability,
- Non interference in pp,
- Impartiality in reporting,
- Objectivity of reports,
- Implementation of relevant laws on anti-corruption and the Bureau's regulations, etc

#### *Speaker Notes: Introduction to the code of conduct*

The speaker introduces the objectives of the Code of Conduct are to ensure:

- Transparency and accountability,
- Non interference in Public Procurement,
- Impartiality in reporting,
- Objectivity of reports,
- Implementation of relevant laws on anti-corruption and the Bureau's regulations, etc

## Slide 3

- Observers are expected to perform their duties in strict compliance with the following Code of Conduct:
- 1. They shall wear their identity cards/badges while executing their functions.
- Quare: which badge - from the BPP or organisational badge indicating that one is a monitor?
- 2. They shall observe the procurement proceedings without participating or interfering with the proceedings by directing, controlling, instructing or countermanding decisions of the Accounting Officer or any other relevant authority.
- Comment: But you can quest for documents
- 

*Speaker Notes: DISCUSSIONS ON CODE OF CONDUCT*

The speaker discusses what is expected from the Observers according to the Code of Conduct:

- They shall wear their identity cards/badges while executing their functions. The badge must be from the BPP or their organisational badge indicating that they are monitors?
- They shall observe the procurement proceedings without participating or interfering with the proceedings by directing, controlling, instructing or countermanding decisions of the Accounting Officer or any other relevant authority.
- But they can however request for documents without hindering the process.

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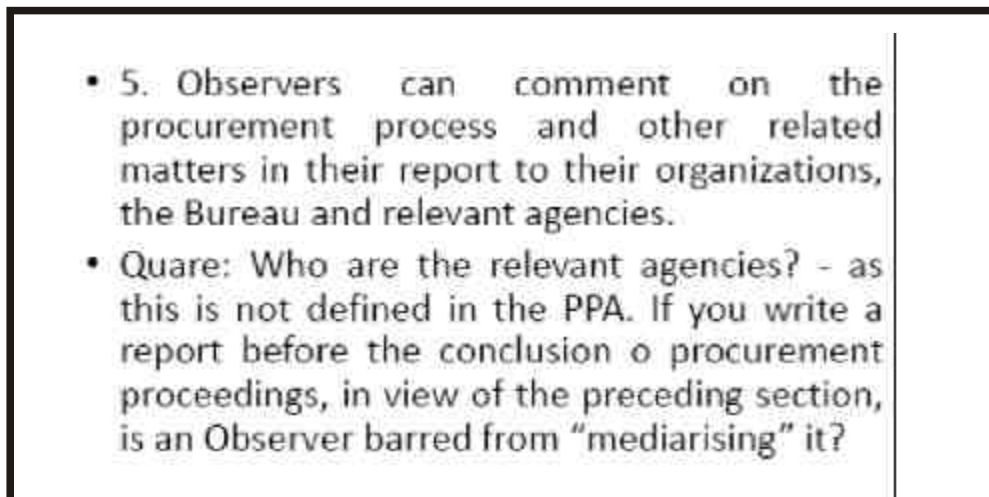
- 3. All Observers shall comply with lawful directives issued by the Accounting Officer, chairperson of a Tender's Board or any relevant authority or its representatives.
- Comment: The qualifying words is "lawful directives" not unlawful ones
- 4. Observers shall not grant press interviews or comments on any procurement proceedings.
- Quare: Are we abridging the right to freedom of expression? If an observer discovers a manifestly abusive proceeding, should he refuse to address the media even if asked about what he saw? When does this injunction terminate - forever or until the conclusion of the proceedings?

Speaker Notes:

The speaker continues to discuss what is expected from the Observers according to the Code of Conduct:

- All Observers shall comply with lawful directives issued by the Accounting Officer, chairperson of a Tender's Board or any relevant authority or its representatives - The qualifying words is "lawful directives" not unlawful ones
- Observers shall not grant press interviews or comments on any procurement proceedings. Are we abridging the right to freedom of expression? If an observer discovers a manifestly abusive proceeding, should he refuse to address the media even if asked about what he saw? When does this injunction terminate - forever or until the conclusion of the proceedings?

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Speaker Notes

The speaker continues to discuss what is expected from the Observers according to the Code of Conduct:

- ? Observers can comment on the procurement process and other related matters in their report to their organizations, the Bureau and relevant agencies.
- ? Who are the relevant agencies? - as this is not defined in the PPA. If you write a report before the conclusion of procurement proceedings, in view of the preceding section, is an Observer barred from "mediarising" it?



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- 6. No Observer shall wear any apparel which:
  - (a) reflects affiliation with a bidder or service provider partaking in the procurement proceedings;
  - 
  - (b) in any way canvasses for a bidder or service provider to win the procurement proceedings.
  -
- 7. No Observer shall participate in any function or activity that could lead to perception of a leaning or being favourably disposed towards a bidder or service provider.

### Speaker Notes

The speaker continues to discuss what is expected from the Observers according to the Code of Conduct:

- No Observer shall wear any apparel which:
  - o reflects affiliation with a bidder or service provider partaking in the procurement proceedings;
  - o in any way canvasses for a bidder or service provider to win the procurement proceedings.
- No Observer shall participate in any function or activity that could lead to perception of a leaning or being favourably disposed towards a bidder or service provider.

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- 8. An Observer shall not accept any gift, offer of employment, favour or any other benefit, item or service that can be quantified in monetary terms from any bidder, service provider, public officer or any person involved in the procurement proceedings.  
Comments: Reported attempts by MDAs to provide transportation money for observers- is it in accordance with the Code of Conduct? Suppose they offer you tea and kola or light refreshments during bid opening- what is the status of such offer?



### Speaker Notes

The speaker continues to discuss what is expected from the Observers according to the Code of Conduct:

- An Observer shall not accept any gift, offer of employment, favour or any other benefit, item or service that can be quantified in monetary terms from any bidder, service provider, public officer or any person involved in the procurement proceedings (i.e Observer shall not collect bribe).
- Comments: Reported attempts by MDAs to provide transportation money for observers - is it in accordance with the Code of Conduct? (Not acceptable)
- Suppose they offer you tea and kola or light refreshments during bid opening- what is the status of such offer? (Okay as far as it is for all present but don't do take away)

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- 9. Observers shall display strict impartiality in the course of observing procurement proceedings and shall at no time indicate or express any statement capable of public incitement at the venue of the procurement proceedings.
- 10. Observers shall desist from doing anything that compromises the integrity of the procurement proceedings.
- Comment: Identify examples

### Speaker Notes

The speaker continues to discuss what is expected from the Observers according to the Code of Conduct:

- Observers shall display strict impartiality in the course of observing procurement proceedings and shall at no time indicate or express any statement capable of public incitement at the venue of the procurement proceedings.
- Observers shall desist from doing anything that compromises the integrity of the procurement proceedings.
- Comment: Example will be commenting on the capability or incapability of any of the bidders.

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- 11. Observers shall decline serving in that capacity, if any of the bidders, service providers or public officials engaged in the procurement proceedings is related to him by blood, marriage or business association, grant relationship or where the success of a particular bidder or service provider in the proceedings will confer a pecuniary or other advantage on him.
- Quare: Are CSOs barred from observing the PP of any MDA where they have a collaboration that has resulted or may result in part financing of a project?

Speaker Notes

The speaker continues to discuss what is expected from the Observers according to the Code of Conduct:

- Observers shall decline serving in that capacity, if any of the bidders, service providers or public officials engaged in the procurement proceedings is related to him by blood, marriage or business association, grant relationship or where the success of a particular bidder or service provider in the proceedings will confer a pecuniary or other advantage on him. (Possible Conflict of Interest)
- Are CSOs barred from observing the PP of any MDA where they have a collaboration that has resulted or may result in part financing of a project? (YES, key is full disclosure and doing the right thing)

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- 12. Observers shall not serve in a ministry, department or agency where he has been in the last three years, is or likely to be involved in procurement proceedings as a bidder or service provider.
- 13. Observers shall not create a source of personal or organizational revenue or advantage by inordinately using public knowledge which comes to him in the course of his observation.
- How do you define the inordinate use of public knowledge acquired in the course of observation?

### Speaker Notes

The speaker continues to discuss what is expected from the Observers according to the Code of Conduct:

- Observers shall not serve in a ministry, department or agency where he/she has been in the last three years, is or likely to be involved in procurement proceedings as a bidder or service provider.
- Observers shall not create a source of personal or organizational revenue or advantage by inordinately using public knowledge which comes to him in the course of his observation.
- How do you define the inordinate use of public knowledge acquired in the course of observation? (the use of such knowledge to compromise the objectives of public procurement such as fair competition, transparency, value for money and accountability)

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- 14. All Observers shall take reasonable steps to be factual and substantiate information to be used in their procurement report. In a situation where they cannot substantiate their report, the Observer shall, without fear, state his inability to verify the truth of the information.
- 15. Observers shall report all breaches of the Code of Conduct and offences observed during procurement proceedings to the Bureau.
- 16. A breach of this code of ethics may amount to a violation of the Public Procurement proceeding.

### Speaker Notes

The speaker continues to discuss what is expected from the Observers according to the Code of Conduct:

- All Observers shall take reasonable steps to be factual and substantiate information to be used in their procurement report. In a situation where they cannot substantiate their report, the Observer shall, without fear, state his inability to verify the truth of the information.
- Observers shall report all breaches of the Code of Conduct and offences observed during procurement proceedings to the Bureau.
- A breach of this code of ethics may amount to a violation of the Public Procurement proceeding.

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**Oath of Allegiance for Public Procurement Observers**

- 
- I.....do solemnly swear/affirm that I will discharge the duties of observation and reporting on the procurement proceedings of Ministries, Department and Agencies of the Federal Government in an honest and dispassionate manner; that I will use the best of my abilities and endeavours to discharge my responsibilities in a way and

*Speaker Notes: Oath of Allegiance for Observers*

The speaker explains the Oath of allegiance for Observers:

- I (Name of Observer) do solemnly swear/affirm that I will discharge the duties of observation and reporting on the procurement proceedings of Ministries, Department and Agencies of the Federal Government in an honest and dispassionate manner; that I will use the best of my abilities and endeavours to discharge my responsibilities in a way and

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- manner that promotes the objectives of the Public Procurement Act 2007, and policies and regulations made thereunder, the Constitution of the Federal Republic of Nigeria 1999 and other laws in that regard; that I shall not take advantage of any information that comes to me for any personal gain or extort money or blackmail a party to the procurement proceedings.
- 
- So help me God.

### Speaker Notes

The speaker continues to explain the Oath of allegiance for Observers:

- manner that promotes the objectives of the Public Procurement Act 2007, and policies and regulations made there-under, the Constitution of the Federal Republic of Nigeria 1999 and other laws in that regard; that I shall not take advantage of any information that comes to me for any personal gain or extort money or blackmail a party to the procurement proceedings.
- So help me God.

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**Qualifications of Public Procurement Observers**

- **Qualifications of Public Procurement Observers**
- The qualification of observers from organizations wishing to monitor procurement proceedings shall be as follows:
- The organizations mandate if an NGO must include issues of transparency, accountability and anti-corruption, and the NGO or its promoters must have a track record of work in issues of transparency, accountability and anti-corruption.

If a professional body, its expertise must be relevant to the goods, works or services being procured.

### Speaker Notes

The speaker explains the qualifications of Public procurement Observers:

- The qualification of observers from organizations wishing to monitor procurement proceedings shall be as follows:
- The organizations mandate if an NGO must include issues of transparency, accountability and anti-corruption, and the NGO or its promoters must have a track record of work in issues of transparency, accountability and anti-corruption.
- If a professional body, its expertise must be relevant to the goods, works or services being procured.



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- The NGO must have been registered with the Corporate Affairs Commission, relevant state or local government authority. If a professional body, it must be chartered by statute or registered by Corporate Affairs Commission.
- That an observer organization must not be one that has been blacklisted by the Bureau for infractions to this code of ethics.
- Quare: If CSJ sues the Federal Government for the non constitution of the NCPP will that be enough ground for the BPP to blacklist CSJ, from participating in procurement observation?
- That every observing organization shall administer an oath of allegiance on its personnel involved in observation duties to comply with the Public Procurement Act 2007, rules and regulations made there under.

Speaker Notes

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- The NGO must have been registered with the Corporate Affairs Commission, relevant state or local government authority. If a professional body, it must be chartered by statute or registered by Corporate Affairs Commission.
- That an observer organization must not be one that has been blacklisted by the Bureau for infractions to this code of ethics.
- If CSJ sues the Federal Government for then on constitution of the NCPP will that be enough ground for the BPP to blacklist CSJ, from participating in procurement observation?
- That every observing organization shall administer an oath of allegiance on its personnel involved in observation duties to comply with the Public Procurement Act 2007, rules and regulations made there-under.

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**Thank You!**

Speaker Notes  
NO COMMENTS



## 11.0 MODULE XI: UNDERSTANDING ACCESS TO INFORMATION

### *11.1 Module Objectives*

#### 11.1.1 Rationale

Some of the objectives of the new public procurement regime introduced by the PPA Act 2007 and the fundamental principles guiding all public procurements include: ensuring probity in the procurement process, ensuring accountability in the procurement process and attainment of transparency in the procurement process.

#### 11.1.2 Objective

The objective of this module is to educate participants on the provisions of the PPA 2007 on the mechanisms for access to information

The mechanisms include:

- ? Rigorous and systematic documentation of procurement proceedings and maintenance of procurement records as well as collation and maintenance of a variety of other records & information related to the procurement process
- ? The requirement for the proactive release of certain types of information.
- ? A regime of access to procurement information based on requests by stakeholders and interested members of the public..

This knowledge will provide them a deeper understanding of the public procurement system in Nigeria they may observe during the monitoring of various MDAs as they undertake their annual procurement activities.

### *11.2 Module Programme*

The module programme covers documentation and record keeping under the PPA 2007, transparency and accountability provisions under the Act, who is entitled to request for information under the Act, bodies to request information from and in what form.

### *11.3 Module Reading*

#### 11.3.1 Essential reading

- 1) Public Procurement Act 2007

#### 11.3.2 Further reading

Procurement Procedures Manual for Public Procurement in Nigeria issued by the BPP

## 11.4 Module Content

### Slide 1

# Understanding Access to Procurement Information

#### Speaker Notes


This lecture presents an overview of Understanding Access to Procurement Information.

### Slide 2

**Transparency Objectives of the PPA**

Some of the objectives of the new public procurement regime introduced by the PPA Act 2007 & the fundamental principles guiding all public procurements include:

- ▶ Ensuring **probity** in the procurement process.
- ▶ Ensuring **accountability** in the procurement process.
- ▶ Attainment of **transparency** in the procurement process.



#### Speaker Notes

The speaker introduces the transparency objectives of the PPA2007:


Some of the objectives of the new public procurement regime introduced by the PPA Act 2007 & the fundamental principles guiding all public procurements include:

- Ensuring probity in the procurement process.
- Ensuring accountability in the procurement process.
- Attainment of transparency in the procurement process.

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**T & A Mechanisms in PPA 2007**

- ▶ The PPA 2007 creates mechanisms to achieve its objectives of transparency & accountability.
- ▶ These mechanism should help in more effective monitoring of the public procurement process.
- ▶ The mechanisms include:
  - ⇒ Rigorous & systematic documentation of procurement proceedings & maintenance of procurement records as well as collation & maintenance of a variety of other records & information related to the procurement process.




#### Speaker Notes:

The speaker discusses transparency and accountability provisions in PPA 2007.

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**T & A Mechanisms in PPA 2007**

- ⇒ The requirement for the proactive release of certain types of information.
- ⇒ The requirement that bid opening sessions are open to the public as well as stakeholders & interested parties.
- ⇒ A regime of access to procurement information based on requests by stakeholders & interested members of the public.




#### Speaker Notes:

The speaker continues to discuss T & A requirements of the PPA 2007.

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**Documentation & Record Keeping Under the PPA 2007**

- The PPA 2007 places a lot of emphasis on good record keeping & management.
- It contains extensive provisions on information & record gathering, collation, storage, management & dissemination.
- There are many databases, registers, lists & other information systems which the BPP & the procuring entities are mandated to develop, establish, or maintain.



### Speaker Notes

The speaker discusses documentation and record keeping under the PPA 2007:


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- There are many databases, registers, lists & other information systems which the BPP & the procuring entities are mandated to develop, establish, or maintain.

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**Documentation & Record Keeping Under the PPA 2007**

The PPA 2007 requires that all communication on any matter deriving from the Act or proceedings of public procurement should be in writing or in such other form as the BPP may stipulate.

– S.16(11)




### Speaker Notes

This is self-explanatory.

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## Documentation & Record Keeping Under the PPA 2007

- ▶ Every procuring entity is required to maintain both file & electronic records of all procurement proceedings made within each financial year.
- ▶ The procurement records must be maintained for a period of 10 years from the date of the award of the contract
  - Ss.16(12) & 38(1)



Speaker Notes

The speaker continues to discuss documentation and record keeping under the PPA 2007.

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## Documents & Records Available Under the PPA 2007

- ▶ National database of standard prices
- ▶ The Procurement Journal
- ▶ National database/register of Federal contractors & service providers
- ▶ Federal Procurement Plans & Information
- ▶ Procurement Plans of procuring entities



## Speaker Notes

The speaker continues to discuss documents and records available under the PPA 2007:

- National database of standard prices (The BPP is mandated to keep a national database of standard prices based on monitoring of prices of tendered items by the Bureau) S.5(e)
- The Procurement Journal (to be published in paper & electronic formats & maintained in an archival system by BPP) S.5(g).
- National database/register of Federal contractors & service providers (to be maintained by BPP & should contain their particulars. BPP will also prescribe classification & categorization of all companies on the register) Ss.5(h) & 6(1)(f).
- Federal Procurement Plans & Information (to be collated & maintained in an archival system by BPP) S.5(i)
- Procurement Plans of procuring entities (including needs assessment & evaluation; identification of goods, works or services required; market & statistical survey; cost implications of proposed procurement, etc.) S.18

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## Speaker Notes

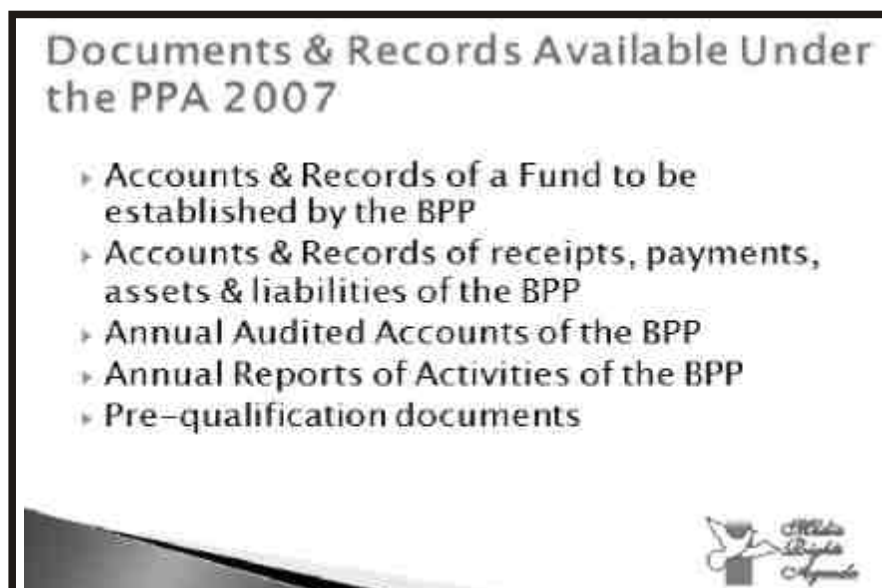
The speaker continues to discuss documents and records available under the PPA 2007:

- Standard bidding & contract documents (to be prepared & updated by BPP) S.5(m)
- Advertisements & Solicitation for bids by procuring entities (to be done by procuring entities in accordance with Regulations & Guidelines issued by BPP) S.19(a)
- Announcement of contract awards by procuring entities (contract awards are required to be announced & publicized by procuring entities in a format stipulated under the



- PPA 2007 & in accordance with Guidelines issued by the BPP)
- Reports of Procurement Audits (to be performed by the BPP & submitted to the National Assembly bi-annually) S.5(p)
- List of firms & persons that have been debarred from participating in public procurement activities (to be maintained by the BPP) S.6(1)(g)

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### Speaker Notes

The speaker continues to discuss documents and records required under the PPA 2007:

- Accounts & Records of a Fund to be established by the BPP (the accounts & records of the Fund will be kept by the BPP in the form specified in the Regulations to be made by the National Council on Public Procurement) S.12(3)(b)
- Accounts & Records of receipts, payments, assets & liabilities of the BPP (the accounts & records are to be contained in a Statement of Account to be prepared by the BPP for each financial year in a form as directed by the National Council on Public Procurement) S.13(3)
- Annual Audited Accounts of the BPP (the accounts of the BPP are to be audited within 6 months after the end of each financial year in accordance with the guidelines issued by the Auditor-General of the Federation) S.13(4)
- Annual Reports of Activities of the BPP (at the end of every financial year, the BPP is to prepare & submit to the National Council on Public Procurement a report that accurately captures all the activities of the BPP during the previous year) S.13(5)
- Pre-qualification documents

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## Speaker Notes

The speaker continues to discuss documents and records required under the PPA 2007:

- Bid Documents (All bids in response to an invitation to open competitive bidding are to be submitted in writing, in addition to any other format stipulated in the tender documents) S.27(1)
- Attendance Register at Bid Openings (the procuring entity is required at bid openings to ensure that a register is taken of the names & addresses of all those present at the bid opening & the organizations they represent. This is to be recorded by the Secretary of the Tenders Board) S.30(d)
- Bid Rejection Letter/Notice (in all cases where a bid is rejected at the stage of bid examination, either for a “major deviation” or for a “minor deviation”, a letter stipulating the reasons for the rejection is to be sent to the bidder) S.31(9) & (15)
- Written Clarification on Minor Deviations (in cases of minor deviation in bid documents, written clarification may be obtained from the supplier or contractor and, where applicable, an offer made for the correction of the minor deviation) S.31(12)
- Notification to Consultants (after the evaluation of quality is completed & a decision has been taken, the procuring entity is required to notify the consultants whose proposals did not meet the minimum qualifying mark or were non-responsive to the invitation for proposals & ToR within 14 working days. S51(3)

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Speaker Notes


The speaker continues to discuss documents and records required under the PPA 2007:

- Details of Qualifying Consultants (during the selection of proposals, the name of the qualifying consultants, the quality of scores for the technical component of the proposal shall be read aloud & record alongside the price proposed by each consultant or service provider when the financial proposals are opened. S.51(4))
- Minutes of Public Opening of Financial Proposals (the procuring entity is required to prepare the minutes of public opening of financial proposals. The minutes form part of the evaluation report. The minutes are to be retained by the procuring entity) S.51(5))
- Notice of Acceptance of Bid (the PPA requires that a notice of acceptance of bid should be given to the successful bidder immediately after a winner is selected) S.33(3))
- Notification to the BPP (the BPP in its procurement manual also requires procuring entities to notify it of the award of all contracts) Para 65)
- Details of Contracts Awarded (the BPP requires in its procurement manual that the award of all contracts should be published in two national dailies with a description of the contract, the name of contractors/supplier & the contract price clearly stated) Para. 65)

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**Using T & A Provisions in PPA 2007**

- A number of factors are important for the effective use of the transparency & accountability provisions in the PPA 2007 to obtain records, documents & other information.
- These factors include:
  - ⇒ Knowing what types of information you are entitled to ask for & receive
  - ⇒ Knowing what bodies you can request information from



Speaker Notes

The speaker explains using the transparency and accountability provisions in the PPA 2007:

A number of factors are important for the effective use of the transparency & accountability provisions in the PPA 2007 to obtain records, documents & other information.

These factors include:

- o Knowing what types of information you are entitled to ask for & receive
- o Knowing what bodies you can request information from.

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**Using T & A Provisions in PPA 2007**

- ⇒ In what form you should make your requests for information
- ⇒ How you should frame your requests for information
- ⇒ What fees you might be required to pay for requested records, documents or other information
- ⇒ What the stages & timeframes are for receiving requested records & other information
- ⇒ Relevant offences & sanctions regarding information use



Speaker Notes

The speaker continues with transparency and accountability provisions in PPA 2007:


- In what form you should make your requests for information
- How you should frame your requests for information
- What fees you might be required to pay for requested records, documents or other information
- What the stages & timeframes are for receiving requested records & other information
- Relevant offences & sanctions regarding information use, its expertise must be relevant to the goods, works or services being procured.

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**Who is Entitled to Request Information Under the PPA**

▶ Under the PPA, some documents or records can be requested by different stakeholders, including:

- ⇒ Any member of the public
- ⇒ Suppliers
- ⇒ Contractors
- ⇒ Consultants
- ⇒ The BPP or an investigator appointed by it.
- ⇒ The Auditor-General of the Federation.
- ⇒ Donor officials where donor funds have been used for the procurement. – S.38(5)



Speaker Notes

The speaker explains that under the PPA, some documents or records can be requested by different stakeholders, including:

Any member of the public


- Suppliers
  - Contractors
  - Consultants
  - The BPP or an investigator appointed by it.
  - The Auditor-General of the Federation.
  - Donor officials where donor funds have been used for the procurement.
- S.38(5)



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### Who is Entitled to Request Information Under the PPA

- ▶ Certain types of documents, records & information are open to all members of the public:  
***“All unclassified procurement records shall be open to inspection by the public at the cost of copying & certifying the documents plus an administrative charge as may be prescribed from time to time by the Bureau.” – S.16(14)***




Speaker Notes

This is self-explanatory.

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### Who is Entitled to Request Information Under the PPA

- ▶ Comprehensive records of procurement proceedings are to be made available, on request, to any person after a tender, proposal, offer or quotation has been accepted or after procurement proceedings have been terminated without resulting in a procurement contract. – S.38(2)(a)




Speaker Notes

This is self-explanatory.

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### Who is Entitled to Request Information Under the PPA

- The relevant authority may in the course of the investigation, remove books, records, accounts or documents of the procuring entity, bidder, supplier, contractor or consultant for as long as necessary to examine them & make extracts from or copies of them. But the investigator must give a detailed receipt for the books, records, accounts or documents removed. – S.53(2)(d)



Speaker Notes

This is self-explanatory.

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### What Bodies Can You Request Information From?

- The Federal Government of Nigeria
- National Council on Public Procurement
- Bureau of Public Procurement
- Procuring Entities:
  - ⇒ A procuring entity is any public body engaged in procurement.
  - ⇒ A public body may be a natural or legal person in so far as it performs public functions or exercises administrative authority as provided for by the PPA.



## Speaker Notes

The speaker lists the bodies where request for information can be made to:

- The Federal Government of Nigeria
- National Council on Public Procurement
- Bureau of Public Procurement
- Procuring Entities:
  - A procuring entity is any public body engaged in procurement.
  - A public body may be a natural or legal person in so far as it performs public functions or exercises administrative authority as provided for by the PPA.

## Slide 20

**What Bodies Can You Request Information From?**

- ⇒ Any institution, whether publicly or privately owned may also be regarded as a public body if it exercises a public function or carries out a procurement activity under the PPA.
- Procuring entities include:
  - ⇒ Ministries
  - ⇒ Extra-Ministerial Offices & Departments
  - ⇒ Government Agencies
  - ⇒ Parastatals
  - ⇒ Corporations, etc.

*PPA*  
*Public Procurement*  
*Agency*

## Speaker Notes

The speaker continues to list the bodies where request for information can be made to:

- Any institution, whether publicly or privately owned may also be regarded as a public body if it exercises a public function or carries out a procurement activity under the PPA.


Procuring entities include:

- Ministries
- Extra-Ministerial Offices & Departments
- Government Agencies
- Parastatals
- Corporations, etc.

Slide 21

**In What Form Should A Request for Information be Made Under the PPA?**

- In general, access to information laws provide for requests for information to be made either orally or in writing.
- However, the PPA is not very specific in terms of the form in which the various requests for information under the Act should be made.




Speaker Notes

This is self-explanatory.

Slide 22

**In What Form Should A Request for Information be Made Under the PPA?**

- But the Act requires that ALL communication on any matter deriving from the Act or proceedings of public procurement should be in writing or in such other form as the BPP may stipulate) – S.16(11)
- It can therefore be inferred from this that all requests for information under the Act should be in writing.



Speaker Notes

This is self-explanatory.



Slide 23

**Drafting a Request for Information Under the PPA**

- ▶ The PPA does not specify what details should be contained in requests for information.
- ▶ No Guidelines or Templates have also been issued by the BPP for requesting information.
- ▶ It is however advisable that a request should contain sufficient detail to enable the public body identify the record you are seeking & provide you with the information.

Speaker Notes

The speaker starts explaining how to draft request for information under the PPA 2007.

- The PPA does not specify what details should be contained in requests for information.
- No Guidelines or Templates have also been issued by the BPP for requesting information.
- It is however advisable that a request should contain sufficient detail to enable the public body identify the record you are seeking and provide you with the necessary information.

Slide 24

**Drafting a Request for Information Under the PPA**

- ▶ But the request should be simple & straightforward.
- ▶ It should include the name & contact details of the person making the request
- ▶ There should be a clear & precise description of the document you are requesting.

## Speaker Notes


The speaker continues to explain the draft letter of request for information.

- But the request should be simple & straightforward.
- It should include the name & contact details of the person making the request
- There should be a clear & precise description of the document you are requesting.

## Slide 25

### Drafting a Request for Information Under the PPA (Contd.)

- ▶ It is also advisable that you provide any other information you have that may make the document you are requesting easier to locate, e.g. (if known):
  - The title of the document
  - The date the document was issued
  - The file reference number of the document
  - The name of the author of the document, etc.
- ▶ Indicate the form in which the information is required.



## Speaker Notes

The speaker continues to explain the draft letter of request for information.


- It is also advisable that you provide any other information you have that may make the document you are requesting easier to locate, e.g. (if known):
  - The title of the document
  - The date the document was issued
  - The file reference number of the document
  - The name of the author of the document, etc.
- Indicate the form in which the information is required.



Slide 26

**Cost of Obtaining Docs & Records**

- ▶ The PPA 2007 provides a cost framework for some records, documents & information
- ▶ All unclassified procurement records are available to the public *“at the cost of copying & certifying the documents plus an administrative charge as may be prescribed from time to time by the Bureau” S.16(14)*



Speaker Notes


The speaker explains the reimbursement to government of the cost of obtaining documents and records:

- The PPA 2007 provides a cost framework for some records, documents & information
- All unclassified procurement records are available to the public *“at the cost of copying & certifying the documents plus an administrative charge as may be prescribed from time to time by the Bureau” S.16(14)*

Slide 27

**Cost of Obtaining Docs & Records**

- ▶ Suppliers, contractors & consultants may receive requested pre-qualification documents at "***the cost of printing & provision***" to them. – S.23(2)



Speaker Notes

The speaker continues to explain the reimbursement to government of the cost of obtaining documents and records:

- Suppliers, contractors & consultants may receive requested pre-qualification documents at "*the cost of printing & provision*" to them. - S.23(2)

Slide 28

**Thank You!**



Speaker Notes

Thank you.

## 12.0 Module XII: Introduction to Observers Check List

### *12.1 Module Objectives*

The purpose of the checklist is to ascertain if the Observer is equipped with the requisite information and documents that will enable him/her perform legally and effectively, the function of observation of the public procurement process.

Observers are to mark the option that best suits their answers.

### *12.2 Module Programme*

The module programme covers a step by step review of the observers checklist.

### *12.3 Module Reading*

#### 12.3.1 Essential reading

- 1) Public Procurement Act 2007
- 2) Public Procurement Observation Checklist

12.4 Module Content

Page 1

**PUBLIC PROCUREMENT OBSERVATION CHECKLIST**

**PART 1 - ADVERTISEMENT TO BID OPENING**

**Introductory Notes:**

1. This part of the Checklist should be completed within five working days from the date of Bid Opening.
2. Observers should study the User Guide to Public Procurement Observation Checklist before filling the checklist.
3. The questions marked in blue are optional.

**1.0 Introduction**

**1.1 Observer Information**

**1.1.1 Observer's Name**

**1.1.2 Observer's Organisation**

**1.1.3 Observer's Address**

- a. Street: \_\_\_\_\_
- b. Town: \_\_\_\_\_
- c. State: \_\_\_\_\_
- d. Telephone: \_\_\_\_\_
- i. Office phone: \_\_\_\_\_
- ii. Mobile phone: \_\_\_\_\_
- e. Email: \_\_\_\_\_

**1.2 Information on Ministry, Department or Agency (MDA)**

**1.2.1 Name and Address of MDA Observed**

1. Name of MDA:  
*[E.g. Federal Ministry of Education or National Primary Healthcare Development Agency]*  
 \_\_\_\_\_  
 \_\_\_\_\_
2. Address
  - a. Street: \_\_\_\_\_
  - b. Town: \_\_\_\_\_
  - c. State: \_\_\_\_\_
  - d. Telephone: \_\_\_\_\_
  - i. Office phone: \_\_\_\_\_
  - ii. Mobile phone: \_\_\_\_\_
  - e. Email: \_\_\_\_\_

**Speaker Notes**

Page 1:

Section 1.1 covers introduction of the Observer including name, organization, street address, phone numbers and email address.

Section 1.2 covers introduction of the Ministry, Department and Agency (MDA) including name, street address, phone numbers and email address.

**1.2.2 Name and address of supervising Ministry (if any)**

- a. Street: \_\_\_\_\_
- b. Town: \_\_\_\_\_
- c. State: \_\_\_\_\_
- d. Telephone
- i. Office phone: \_\_\_\_\_
- ii. Mobile phone: \_\_\_\_\_
- e. Email: \_\_\_\_\_
- f. Website: \_\_\_\_\_

**1.2.3 Name of Accounting Officer:**

- a. Name: \_\_\_\_\_
- b. Position/Rank: \_\_\_\_\_

**1.3 Description of Procurement****1.3.1 Title of Procurement:**

\_\_\_\_\_

**1.3.2 Nature of procurement: Is the procurement for goods, works or services?**

- A. Goods
- B. Works
- C. Services?

**1.3.3 Sources of Procurement Funding and their respective Percentages (if any)**

- A. What are the sources of funding for the procurement? (Please mark (X) the appropriate)
- i. Annual Appropriations (Government budgets)
- ii. bilateral donor funds
- iii. Grants
- iv. Loans
- B. Is government co-funding or providing counterpart funding for the procurement with another institution? Yes  No
- C. If government is co-funding the procurement, is its contribution/counterpart funding up to 35%? Yes  No  Not Applicable
- D. If your answer in C above is positive, which of the following category best describes the percentage range of government's contribution to the funding of the procurement?
- A. 35%-45%  B. 45%-55%  C. 55%-65%  D. 65%-75%
- E. 75%-85%  F. 85%-100%  G. Not Applicable

**Speaker Notes**Page 2:

Section 1.2.2 covers Supervising Ministry - name, street address, phone numbers and email address.

Section 1.2.3 covers the name and position of the Accounting Officer of the procuring entity.

Section 1.3 covers the description of the procurement, nature of the procurement and source of funding.

**2.0 Access to Documents**

- 2.1 Which of the following documents were made available to you by the Ministry, Department or Agency (MDA) at the time of invitation or prior to the date of bid opening?
- A. A written invitation letter to observe. Yes  No
- B. Copies of advertisement for pre-qualification or requesting for bid.  
Yes  No
- C. Procurement Plan. Yes  No
- D. Bidding documents/ Request for Proposal (RFP) Yes  No
- 2.2 Did the MDA give you up to seven days Notice in its invitation?  
Yes  No

**3.0 Contents of Procurement Plan**

- 3.1 Which of the following information or documents were contained in the Procurement Plan made available?
- |   |                                  |                                 |
|---|----------------------------------|---------------------------------|
| 1. Needs assessment and evaluation?   | [A] Yes <input type="checkbox"/> | [B] No <input type="checkbox"/> |
| 2. Identity of the goods, works or services required?   | [A] Yes <input type="checkbox"/> | [B] No <input type="checkbox"/> |
| 3. Aggregation of needs where possible within the procuring entity or between procuring entities? | [A] Yes <input type="checkbox"/> | [B] No <input type="checkbox"/> |
| 4. Procurement Methodology?   | [A] Yes <input type="checkbox"/> | [B] No <input type="checkbox"/> |

**4.0 Procurement Methodology**

- 4.1 What procurement methodology was recommended for this particular procurement?
- |                             |                                  |                                 |
|-----------------------------|----------------------------------|---------------------------------|
| 1. Open Competitive Bidding | [A] Yes <input type="checkbox"/> | [B] No <input type="checkbox"/> |
| 2. Two-stage Tendering      | [A] Yes <input type="checkbox"/> | [B] No <input type="checkbox"/> |
| 3. Restricted Tendering     | [A] Yes <input type="checkbox"/> | [B] No <input type="checkbox"/> |
| 4. Direct Procurement       | [A] Yes <input type="checkbox"/> | [B] No <input type="checkbox"/> |
| 5. Emergency Procurement    | [A] Yes <input type="checkbox"/> | [B] No <input type="checkbox"/> |
| 6. Request for Quotations   | [A] Yes <input type="checkbox"/> | [B] No <input type="checkbox"/> |
- 4.2 From the Procurement Plan, what were the reasons for choosing other methodologies instead of Open Competitive Bidding?
- |                          |                                  |                                 |
|--------------------------|----------------------------------|---------------------------------|
| 1. Expediency            | [A] Yes <input type="checkbox"/> | [B] No <input type="checkbox"/> |
| 2. Cost effectiveness    | [A] Yes <input type="checkbox"/> | [B] No <input type="checkbox"/> |
| 3. Emergency             | [A] Yes <input type="checkbox"/> | [B] No <input type="checkbox"/> |
| 4. Nature of procurement | [A] Yes <input type="checkbox"/> | [B] No <input type="checkbox"/> |
| 5. Others .....          | [Please limit to 5 words]        |                                 |

**5.0 Advertisement****5.1 Type of Advertisement****Speaker Notes****Page 3:**

Section 2.0 covers the access to documents and information provided by the MDA.  
Section 3.0 covers the observed content of the procurement plan.  
Section 4.0 covers the procurement methodology and reasons for choosing this methodology.



## Page 4

- 5.1.1 Did the procuring entity advertise? Yes  No
- 5.1.2 If the answer is in the affirmative, where was the advertisement placed?
1. Notice Board Yes  No
2. National Newspapers Yes  No
- a. Name  
b. Date of Issue: [Day/Month/Year]  
c. Page
3. Procurement Journal Yes  No
- a. Name  
b. Date of Issue: [Day/Month/Year]  
c. Page
4. Relevant internationally recognized publication Yes  No
- a. Name  
b. Date of Issue: [Day/Month/Year]  
c. Page
5. Official websites ..... (Specify) Yes  No
6. Others ..... (Specify) Yes  No
- 5.1.3 What was the advert for?
- A. Pre-qualification Yes  No
- B. Expression of interest Yes  No
- C. Invitation to tender Yes  No
- D. Request for proposals (RFP) Yes  No

## 5.2 Contents of Advertisement

## GUIDANCE NOTE

1. The Public Procurement Act provides for various procedures for advertising procurements as well the contents of such advertisements.
2. This section deals with the compliance by the procuring entities of the different requirements relating to the contents of the advertisements for procurements.
3. Observers are advised to study Bar 12 below before responding the questions.
4. Observers should mark (☒) in the option that best suits their answer.
5. Observers should note that question 5.2.4 (II) is optional and depends on the availability of such information that will enable the Observer respond to the question.

- 5.2.1 Did the advert above contain clear criteria for short-listing/pre-qualification and selection of winners? Yes  No  Contains but not clear
- 5.2.2 What length of time did the advertisement give for the submission of bids?  
1 Week  2 Weeks  3 Weeks  4 Weeks  5 Weeks  6 Weeks

## Speaker Notes

## Page 4:

Section 5.1 covers the type of advertisement.

Section 5.2 covers the content of the advertisement.

Others  (Please specify)

5.2.3 In case of bidding documents or request for proposal, did the advert contain the following necessary information for collection and submission of bids?

- |                         |                              |                             |
|-------------------------|------------------------------|-----------------------------|
| A. Time in the day      | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| B. Place/address        | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| C. Room number (if any) | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| D. Cost                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

5.2.4 In the case of Advertisement for Bids/Proposals, did the advert contain the following:

- A. Detailed and clear technical specification of goods, works and service to be provided? Yes  No
- B. Brand name descriptions of the goods, works or services? Yes  No
- C. If yes, what reasons were given for the inclusion of brand names in the Procurement Plan?

- D. No description of goods, works and services at all. Yes  No
- E. Criteria for selection of winning bidder or proposal. Yes  No
- F. Unclear criteria for selection of winning bidder or proposal.  
Yes  No
- G. No criteria for selection at all. Yes  No
- H. If criteria were provided, which of the following three were provided:
- |   |                              |                             |
|---|------------------------------|-----------------------------|
| i. Least cost responsive bid/proposal                                       | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| ii. Proposal/bid with the best combined evaluation                          | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| iii. The proposal within the budget that has the highest technical ranking. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

5.2.5 Which of the following bidding categories did the procurement fall under?

- |                                      |                              |                             |
|--------------------------------------|------------------------------|-----------------------------|
| A. National Competitive Bidding      | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| B. International Competitive Bidding | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

5.2.6 If International Competitive Bidding, were the criteria for the application of margin of preference set out in the bidding document? Yes  No

### 5.3 Statutory requirements

5.3.1 Which of the following statutory requirements were requested for in the advert or bidding document or request for proposal?

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| A. Company registration (where applicable)   | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| B. Evidence of tax clearance for three years preceding the particular procurement. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

#### Speaker Notes

##### Page 5:

Section 5.3 covers the statutory requirements of the advertisement.

- C. Evidence of Pension contribution for organization having more than five employees. Yes  No
- D. Affidavit verifying facts in the bids and indicating whether any member of the procuring entity or EPP has any pecuniary interests in the company or the Bid. Yes  No
- E. A statement declaring any subsidiary or dominating relationship with any other bidder. Yes  No

**6.0 Qualification of Bidders**

**6.1 Professional qualifications**

- (A1). Did this particular procurement require specific professional qualification of key personnel? Yes  No
- (A2). If so, was it clearly prescribed? Yes  No
- (A3). Which professional qualification of key personnel was prescribed?

**6.2 Technical qualifications and experience**

- (B1). Did this particular procurement require Technical qualification or experience? Yes  No
- (B2). Which evidence of technical qualification or experience was required?  
*Please specify*

- (B3). If so, was it clearly prescribed? Yes  No

**6.3 Availability of infrastructure and equipments**

- (C1). Did this particular procurement require evidence of (ownership/lease) equipment and infrastructure? Yes  No
- (C2). If so, were they clearly prescribed? Yes  No

**6.4 Financial qualifications**

- (D1). Did this particular procurement require financial qualification? Yes  No
- (D2). If so, what evidence of financial qualification did it prescribe?
  - i. Statement of Account Yes  No
  - ii. Turn Over Yes  No
  - iii. Audited Account Yes  No
  - iv. Others Yes  No

Please specify.....

Speaker Notes

Page 6:

Section 6.1 covers the professional qualifications of bidders  
 Section 6.2 covers the technical qualifications and experience of bidders  
 Section 6.3 covers the infrastructure and equipments of the bidders  
 Section 6.4 covers the financial qualifications of the bidders.

**7.0 Bid Submission**

- 7.1 Was there a Bid register at the MDA for Bid submission? Yes  No
- 7.2 Were all bidders/service providers submitting bids registered chronologically? Yes  No
- 7.3 Was each bidder/service provider issued a receipt of bid submission containing the following:
  - A. Description of the bid Yes  No
  - B. Name of the bidder Yes  No
  - C. Name of MDA Yes  No
  - D. Date of submission of bids Yes  No
  - E. Time of submission of bid? Yes  No
- 7.4 Did the MDA permit your sighting of the following:
  - A. Bid submission register Yes  No
  - B. Duplicate copies of bid submission receipts Yes  No
- 7.5 Did the MDA give you copies of the following:
  - A. Bid submission register Yes  No
  - B. Duplicate copies of bid submission receipts Yes  No
  - C. Minutes of Bid opening Yes  No
- 7.6 In your opinion, is there evidence that the bid submissions were done at the time stipulated in the advertisement? Yes  No
- 7.7 If your answer is No, what in your view accounts for this?
- 7.8 What was the deadline for bid submission?
  - a. Day/date:
  - b. Time of the Day:

**8.0 Bid Opening**

- 8.1 Bid opening information
  - 8.1.1 Did the procuring entity supply you with the information regarding bid opening?
    - (A1) Date of bid opening Yes  No
    - (A2) If yes, please specify in not more than 50 words

**Speaker Notes**

Page 7:

Section 7.0 covers the bid submission.

Section 8.0 covers the bid opening.

(B1) Time and place of bid opening Yes  No

(B2) If yes, please specify in not more than 30 words

(C1) Venue/ place of bid opening Yes  No

(C2) If yes, please specify in not more than 30 words

8.2 Was the following present during the bid opening?

- A. CSO Observer Yes  No
- B. Representative of relevant professional body Yes  No
- C. The bidders or their representatives Yes  No
- D. Other stakeholders (Please specify below) Yes  No

8.3 Tamper-proof box

8.3.1 Did the MDA use a tamper proof box for the purpose of collecting the bids?

Yes  No

8.3.2 Was the tamper proof box opened and the bid produced and opened from such tamper proof box in the presence of participants? Yes  No

8.4 Opening of the Financial Proposals

8.4.1 Were the Financial Proposals opened at the same time with the Technical Proposals?

Yes  No

8.4.2 Briefly explain how this was done in not more than 30 words

8.5 Bid Opening Formalities and Process Issues:

8.5.1 In the process of bid opening, did the following occur?

- A. Permitting attendees to examine the envelopes in which the bids have been submitted to ascertain that the bids have not been tampered with? Yes  No
- B. Causing all the bids to be opened in public, in the presence of the bidders and their representatives and any interested member of the public? Yes  No
- C. Ensuring that the bid opening takes place immediately following the deadline stipulated for the submission of bids or any extension thereof? Yes  No
- D. Counter-signing of each others bid by bidders present. Yes  No
- E. Ensuring that a register is taken of the names and addresses of all those present at the bid opening and the organizations they represent?

Speaker Notes

Page 8:

Section 8.3, 8.4 and 8.5 covers the bid opening.



Yes  No

F. Calling over to the hearing of all present, the name and address of each bidder, the total amount of each bid, the bid currency and recording in the minutes of the bid opening? Yes  No

8.6 Is there evidence that bids were accepted after the closing date for bid submission? Yes  No

**PART 2 - EXAMINATION OF BIDS TO CONTRACT AWARD**

**1.0 Examination of Bids**

**1.1 Eligibility requirements**

A. Did the first three ranking bids evaluated meet the minimum eligibility requirements stipulated in the bidding documents? Yes  No

B. If your answer is no, please give details

C. Were bids duly signed? Yes  No

**1.2 Changes in bids**

1.2.1 During the process of bid evaluation, were there changes in quoted prices?

Yes  No

1.2.2 If yes, explain why and how.

1.2.3 Did the procuring entity give notice of the correction of arithmetic errors to the supplier or contractor that submitted the tender? Yes  No

1.2.4 If yes, how soon after the correction was the notice given? Explain

1.2.5 Which of the following other changes were made?

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| A. Sub-contracting                     | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| B. Time schedule if time is of essence | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| C. Alternative design                  | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| D. Price adjustment                    | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

1.2.6 What other changes if any were made? (Please specify)

**Speaker Notes**

Page 9:

Part 2 is on Examination of Bids to contract award.



**2.0 Request for Documents**

- 2.1 Did you request for the following documents after the bidding?
- A. (1) Minutes of Bid opening: Yes  No   
 (2) If yes, was it given to you? Yes  No
  - B. (1) Minutes of meetings of Evaluation sub-committee of Tender Board for examination and evaluation of tenders: Yes  No   
 (2) If yes, was it given to you? Yes  No
  - C. (1) Minutes of Tender Board's Meeting considering report of the Evaluation sub-committee on the procurement activity: Yes  No   
 (2) If yes, was it given to you? Yes  No
  - D. (1) Letter of notification/award: Yes  No   
 (2) If yes, was it given to you? Yes  No
  - E. (1) Contract document: Yes  No   
 (2) If yes, was it given to you? Yes  No
  - F. (1) Any summary of details of contract published by the MDA or BPP: Yes  No   
 (2) If yes, was it given to you? Yes  No

2.2 In case your request for any of the above documents was turned down, what were the reasons given? Please give details below Not more than 50 words

**3.0 Post Bidding Information**

- 3.1 Information on the Winner
- 3.1.1 Corporate/Personal particulars
- A. Full names: .....
  - B. Addresses: .....
  - C. Was the winner's name found in the register of bid submission? Yes  No
  - D. Nature of bid winner: Natural Person  Legal Person (Company)

Speaker Notes  
 Page 10:  
 Section 2.0 is on request for documents.  
 Section 3.0 is on post bidding information.

- E. If a Legal Person (Company), is there evidence of registration with the Corporate Affairs Commission? Yes  No
- 3.2 Qualifications of Bid winner:
- 3.2.1 Is there evidence that Bid winner met with the following requirements?
- A. Professional qualification/personnel required to execute the contract?  
Yes  No
- B. Financial capacity to execute the procurement? Yes  No
- C. Equipment and infrastructure to execute the procurement? Yes  No
- D. Technical qualification/ experience Yes  No
- 3.3 Disqualification of Bid winner
- 3.3.1 Is the winner in the EPP list of barred contractors? Yes  No
- 3.3.2 Is there evidence that Bid winner is disqualified under the following grounds?
- A. (1) Being in receivership or subject of any form of insolvency/bankruptcy proceedings? Yes  No
- (2) If the answer is in the affirmative, please give details [Limit to 100 words]
- 
- B. Failure to submit valid evidence of payment of taxes. Yes  No
- C. Failure to submit valid evidence of payment of Pension contributions  
Yes  No
- D. Evidence of conviction of a director, owner or manager in any country for any criminal offence relating to procurement proceedings, fraud or financial impropriety or criminal misrepresentation or falsification of facts relating to any matter or crimes committed for financial gain? Yes  No
- E. If a private company, is it controlled by persons who are subject to any bankruptcy proceedings, who have been declared bankrupt or made compromises with their creditors within the last two calendar years prior to the initiation of procurement proceedings? Yes  No
- F. Failure to submit a statement regarding dominating or subsidiary relationships with other parties in the same procurement proceedings.  
Yes  No
- G. Failure to submit an affidavit disclosing pecuniary interest or lack of it and confirming the contents of the bid as true and correct? Yes  No
- H. Failure to submit bid security where required. Yes  No
- 4.0 Evaluation of Bids
- 4.1 In evaluation of bids, did the procuring entity use other criteria apart from the ones stipulated in the bid solicitation documents? Yes  No

### Speaker Notes

#### Page 11:

Section 3.2 and 3.3 is on qualification and disqualification of bidders.

Section 4.0 is on evaluation of bids.

## Page 12

4.2 In the evaluation of the Bids, did the procuring entity conduct the following checks?

A. Check out omissions and quantify same?

Yes  No  Not Applicable

B. Apply discounts, as applicable? Yes  No  Not Applicable

C. Clarify with bidders of questionable minor deviations?

Yes  No  Not Applicable

D. Quantify in monetary terms such questionable deviations?

Yes  No  Not Applicable

E. Convert foreign currency to Nigerian currency?

Yes  No  Not Applicable

F. Calculate and tabulate bid amount with domestic preference where applicable?

Yes  No  Not Applicable

G. Determine the lowest calculated prices in order of rank?

Yes  No  Not Applicable

H. Conduct post qualification of bidders where applicable?

Yes  No  Not Applicable

4.3 Exclusion of bids

4.3.1 Was there an exclusion of any of the bids? Yes  No

4.3.2 If your answer is in the affirmative, please give reasons for exclusion.

4.3.2 If any bid or bids were excluded, did the MDA inform the bidders in writing of reasons for exclusion of their bids? Yes  No

5.0 Acceptance of Bids/Proposals

5.1 For goods and works, was the successful bid the lowest cost bid from the bids responsive as to the bid solicitation? Yes  No

5.2 Was the winning bid selected based on the criteria indicated in paragraphs 7.2 and 8.0 in Part I above? Yes  No

5.3 For proposals, which of the following were the criteria for the acceptance of the bid?

A. Least cost responsive proposal Yes  No

### Speaker Notes

#### Page 12:

Section 4.3 is on exclusion of bids.

Section 5.0 is on acceptance and bids/proposals.

- B. Proposal with the best combined evaluation in accordance with criteria set with respect to technical and price factors. Yes  No
- C. The proposal within the budget that has the highest technical ranking: Yes  No
- 5.4 What was Value of Procurement: [This refers to the total amount of money involved in the procurement].....
- 5.5 Request for clarification
- 5.5.1 Was there a request from any bidder for clarification? Yes  No
- 5.5.2 Did the procuring entity respond to the requests for clarifications? Yes  No
- 5.5.3 Did the procuring entity communicate other bidders of its response to the request for clarification? Yes  No
- 6.0 Post Evaluation Requirements**
- 6.1 Margins of Preference if applicable
- 6.1.1 Were the criteria set out for margin of preference applied? Yes  No
- 6.2 Certificate of "No Objection" to Contract Award
- 6.2.1 Is this procurement within the "No Objection" threshold? Yes  No
- 6.2.2 If yes, was a certificate of "No Objection" to award of contract obtained before awarding the contract? Yes  No
- 7.0 General Compliance Issues**
- 7.1 Was the procurement contained in the annual budget? Yes  No
- 7.2 Did the methodology comply with the prior review thresholds set by the Bureau? Yes  No
- 7.3 Is there evidence that tenders have been split to avoid thresholds set by the Bureau? Yes  No
- 7.4 If the answer is in the affirmative, provide details. [Limit to 100 words]
- 7.5 What was the language of the procurement proceedings?  
 English  Hausa  Igbo  Yoruba  Other(s)
- 8.0 Administrative Review**
- 8.1 Are you aware of any complaint on this particular procurement proceeding? Yes  No

## Speaker Notes

### Page 13:

Section 6.0 is on post evaluation requirements.

Section 7.0 is on general compliance issues.

Section 8.0 is on administrative review

- 8.2 Were the complaints based on any of the following?
- 8.2.1 (A) Non-provision of equal and simultaneous opportunity? Yes  No   
 (B) If the answer is in the affirmative, please give details. [Limit to 100 words]
- 
- 8.2.2 (A) Bribery, treating, or inappropriate conduct in the bidding? Yes  No   
 (B) If the answer is in the affirmative, provide details. [Limit to 100 words]
- 
- 8.2.3 (A) Moving an invalid bid from the examination to the evaluation stage? Yes  No   
 (B) If the answer is in the affirmative, provide details. [Limit to 100 words]
- 
- 8.2.4 Others (Please specify) [Limit to 100 words]
- 
- 8.3 Adjudication of complaints (where there has been a complaint) (optional)
- 8.3.1 Did the Accounting Officer make his decision within 15 days? Yes  No   
 8.3.2 Did the Accounting officer make his decision in writing and addressed to the complainant? Yes  No   
 8.3.3 Was there an appeal to the Bureau? Yes  No   
 8.3.4 Did the Bureau make its decision within 30 working days? Yes  No   
 8.3.5 Was the Bureau's decision in writing and delivered to the Complainant? Yes  No
- 8.4 Conflict of Interest
- 8.4.1 Is there allegation/indication that public officer(s) involved in the procurement process has been involved in any of the following?
- A. Possessing an interest outside his/her official duties that materially influenced the outcome of the tender? Yes  No
- B. Possessing a direct or indirect interest in or relationship with a bidder, supplier, contractor, or service provider that is inherently unethical or that may be implied

## Speaker Notes

### Page 14:

Section 8.2 is on complaints.

Section 8.3 is on adjudication of complaints.

Section 8.4 is on conflict of interest.



## Page 15

- or constructed to be, or make possible personal gain due to the person's ability to influence dealings? Yes  No
- C. Entertaining relationships which are unethical, rendering his/her attitude partial towards the outsider for personal reasons or otherwise inhibits the impartiality of the person's judgments? Yes  No
- D. Placing by acts or omissions the procuring entity he/she represents or the Government in an equivocal, embarrassing or ethically questionable position? Yes  No
- E. Entertaining relationships compromising the reputation or integrity of the procuring entity he/she represents or the Government? Yes  No
- F. Receiving benefits by taking personal advantage of an opportunity that properly belongs to the procuring entity he/she represents or the Government? Yes  No
- G. Creating a source of personal revenue or advantage by using public property which comes into his/her hands either in course of his work or otherwise? Yes  No
- H. Disclosing confidential information being either the property of his/her procuring entity, the Government or to a supplier, contractor or service provider to unauthorized persons in bid to influence bidding outcomes? Yes  No
- 8.5 Is there an allegation/indication that any person who participated in preparing the procurement process also bid directly or indirectly for the same procurement process? Yes  No
- 9.0 Concluding Comments**
- 9.1 In your opinion was the public procurement -
- A. Transparent? Yes  No
- B. Timely? Yes  No
- 9.2 Did the public procurement promote -
- A. Competition? Yes  No
- B. Value for money? Yes  No
- C. Fitness of purpose? Yes  No
- D. Generally in accordance with the provisions of the PPA? Yes  No

**10.0 Further Information**

Use extra sheets of paper for further comments and issues not covered by this Checklist but which you consider relevant to the achievements of the objectives of the PPA.

## Speaker Notes

Page 15:

Section 9.0 is on concluding comments.

Section 10.0 is on further information.



Page 16

Signature

Date

Speaker Notes

Page 16:

This page is for signature.

# Appendices:



## Procurement Planning & Methods: Practical Sessions (Using a typical planning template in excel format)

## Step 1 for Goods Procurement

### Speaker Notes

#### Procurement Planning:

#### Final Set-up for Goods Procurement:

- Draft Bid Documents
  - Enter latest date for Prep and Submission#
  - Enter date for approval at MDA
- Specific Procurement Notice (Advertisement)
  - Enter proposed date of advertisement
- Bidding Period
  - Enter proposed date of Bid Invitation
  - Enter proposed date of Bid Closing-Opening
- Bid Evaluation
  - Enter proposed date of Bid Evaluation Report
  - Enter Date of Approval by MDA
  - Enter Proposed Date of BPP No Objection (if required)
- Contract Finalization
  - Enter proposed date of FEC Approval (if required)
  - Enter Date of Contract Offer to Contractor
  - Enter Proposed date of contract signature
- Contract Implementation
  - Enter proposed date of Mobilisation Advance Payment
  - Enter proposed date of Arrival of Goods
  - Enter proposed date of Inspection Final Acceptance

(Usually one or more contract lots are set-up together in a group for convenience)

## Step 2 for Works Procurement

### Speaker Notes

#### Procurement Planning:

#### Final Set-up for Works Procurement:

- Draft Bid Documents
  - Enter latest date for Prep and Submission
  - Enter date for approval at MDA
- Specific Procurement Notice (Advertisement)
  - Enter proposed date of advertisement
- Bidding Period
  - Enter proposed date of Bid Invitation
  - Enter proposed date of Bid Closing-Opening
- Bid Evaluation
  - Enter proposed date of Bid Evaluation Report
  - Enter Date of Approval by MDA
  - Enter Proposed Date of BPP No Objection (if required)
- Contract Finalization
  - Enter proposed date of FEC Approval (if required)
  - Enter Date of Contract Offer to Contractor
  - Enter Proposed date of contract signature
- Contract Implementation
  - Enter proposed dates of Mobilisation Advance Payment, Substantial Completion, Inspection Final Acceptance and Final Cost

(Usually one or more contract lots are set-up together in a group for convenience)



## Step 3 for Non-Consultant Services Procurement

### Speaker Notes

#### Procurement Planning:

#### Final Set-up for Non-Consultant Services Procurement:

- Draft Bid Documents
  - Enter latest date for Prep and Submission
  - Enter date for approval at MDA
- Specific Procurement Notice (Advertisement)
  - Enter proposed date of advertisement
- Bidding Period
  - Enter proposed date of Bid Invitation
  - Enter proposed date of Bid Closing-Opening
- Bid Evaluation
  - Enter proposed date of Bid Evaluation Report
  - Enter Date of Approval by MDA
  - Enter Proposed Date of BPP No Objection (if required)
- Contract Finalization
  - Enter proposed date of FEC Approval (if required)
  - Enter Date of Contract Offer to Contractor
  - Enter Proposed date of contract signature
- Contract Implementation
  - Enter proposed dates of Mobilisation Advance Payment, Substantial Completion, Inspection Final Acceptance and Final Cost

(Usually one or more contract lots are set-up together in a group for convenience)

## Step 4 for Consultant Services Procurement

### Speaker Notes

#### Procurement Planning:

#### Final Set-up for Non-Consultant Services Procurement:

- Draft Request for Proposal Documents
  - Enter latest date for Prep and Submission
  - Enter date for approval at MDA
- Specific Procurement Notice (Request for Expression of Interest)
  - Enter proposed dates of advertisement, shortlist, submission of short-list and Approval of short-list
- Consultant Proposals
  - Enter proposed dates of Proposal Invitation and Proposal Closing-Opening
- Proposal Evaluation and Negotiation
  - Enter proposed date of submission of Technical Evaluation Report, Approval by MDA, opening of financial proposals, submission of combined technical/financial evaluation report, negotiations and BPP No Objection (if required)
- Contract Finalization
  - Enter proposed date of FEC Approval (if required)
  - Enter Date of Contract Offer to Consultant
  - Enter Proposed date of contract signature
- Contract Implementation
  - Enter proposed date of Mobilisation Advance Payment, Draft Report, Final Report and Final Cost

(Usually one or more contract lots are set-up together in a group for convenience)

## Case Studies



## Slide 1:

## Case Study 1

A tender involved the procurement of four-wheel drive vehicles by ICB. The technical specifications in the tender document were as follows:

- Type: 4-Wheel Drive
- Fuel: Diesel
- Engine: 175 HP at 4500 RPM
- Wheel Base: 21 feet 6 inches
- Suspension: Heavy Duty
- Fuel Tank: 70 Litres
- Ground Clearance: 15cm
- Transmission: Standard Shift

Eight bids were received with the required bid security and documents. The procuring entity as a result of bid evaluation, rejected all but the highest bid on the basis that they failed to comply with one or more of the technical specifications listed above.

1. Do these specs meet the concept of good equipment specs?
2. What should the bidders have done when they received the bids?
3. If you had received a query from the bidders, what would you have done?
4. If you had to clear these bid documents, would you have given the no-objection to issue the documents?

## Speaker Notes

The speaker is to read out each of the case studies, allow class participation before giving his/her opinion.

The specs do not meet the concept of good specs because it excludes all products which are either slightly higher or lower. It should have been specified in ranges and directly related to what will be regarded as valuable in the usage of the product.

## Slide 2:

## Case Study 2

- In an ICB for equipment, the bidding documents prescribed submission of bid security in the sum of 2% of the bid sum in the form of a bank guarantee.
- The procuring entity received 5 bids and at the time of bid opening found that one of the bidder's bid was not accompanied by a bid security. The procuring entity rejected the bid as unresponsive, announced same in the bid opening meeting, and did not read out the bid price, but sealed the same for return to the bidder.
- Is this action acceptable?
- What are your comments?
- How should such matters be dealt with in accordance with the procurement guidelines?

## Speaker Notes

The PE did right.

Slide 3:

### Case Study 3

- In the procurement of a microwave system through ICB procedures, four bids were received, all from eminent and well known international firms.
- In the evaluation, the Procuring Entity rejected the lowest responsive bid from a French firm, on the grounds that the Bid Security issued by the French Bank stated that the guarantee is governed by French Law whereas the bidding documents stipulated Nigerian law as the applicable law for the contract.
- 
- Did the Procuring Entity act correctly? Is the conclusion acceptable?

Speaker Notes

The PE did right.

Slide 4:

### Case Study 4

- The last date for submission of bids and the bid opening for a major hydro-electric dam project estimated at over N50billion had been announced to take place at 11.00hrs, March 10, 2010. Four consortiums had been pre-qualified. On the morning of March 10, the Chairman of the tender opening committee received a fax from one of the prequalified bidders that it had missed a plane connection and hence could not reach the place by 11.00hrs and requested postponement of the last time for the submission of bids and opening by 24hrs. The tender opening committee considered the request favourably, since there were only 4 pre-qualified bidders and only one bid had been received and announced postponement of the bid submission and opening by 24 hours. The announcement was posted on the notice board of the office and the one bidder that had already submitted the bid was permitted to take it back and resubmit if he so wished.
- Did the committee act wisely?

Speaker Notes

The PE did not act wisely. There should not have extended the period to favour one bidder.



Slide 5:

## Case Study 5

- ▶ In a health project, a procuring entity invited bids for "100 portable blood pressure monitoring instruments" for ambulances and rural clinics. Eleven bids were received from firms from Europe, US and Japan. During technical evaluation, the procuring entity noticed that all of the bids offered satisfactory equipment, but they differed in weight from 7lb to 18lb. The technical committee concluded that instruments weighing above 10lb could not be considered 'portable' and proposed award to the lowest among the rest. A bidder who had offered a machine weighing 10.8lb protested.
- ▶ What are your comments?

Speaker Notes

The bidder is right because the specifications and the interpretation was subjective. The word portable should have been defined with precise specifications.

Slide 6:

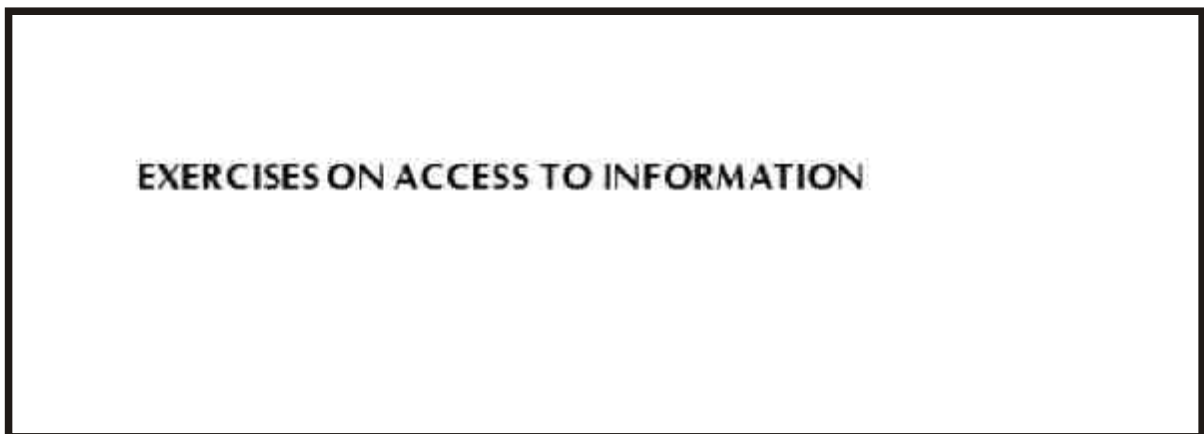
## Thank you

- ▶ Any Questions?

Speaker Notes  
Any questions?

## Exercises on Access to Information

### Slide 1



#### Speaker Notes

This lecture is about exercises on access to information.

Slide 2

## Exercise 1

To be performed in groups with each group made up of 3 participants

- Draft a letter of request to an MDA covered by the Public Procurement Act 2007 asking for a document or record that you require to report on your procurement monitoring activity.

### Speaker Notes

The speaker introduces that this lecture is going to be about exercises on access to information.

The class is to be divided into groups with each group made up of 3 participants each. The idea of 3 participants only per group is to encourage direct participation by all participants.

The task for Exercise No 1 will be to draft a letter of request to an MDA covered by the Public Procurement Act 2007 requesting for a document or record that you require to report on your procurement monitoring activity.

The groups are then asked to take not more 15 minutes to draft this letter.

At the end of the exercise, the speaker picks two of the most interesting letters, reads them to the class and then elicits comments from the class.

Slide 3

## Exercise 2

To be performed in groups with each group made up of 3 participants

- Make a list of 10 key records or documents that you may request for as an observer in the procurement process

### Speaker Notes

The speaker starts Exercise No 2.

The class is to be divided into groups with each group made up of 6 participants each. The idea of 6 participants only per group is because what is required in the assignment is brain-storming.

The task for Exercise No 2 will be to make a list of ten (10) key records or documents that you may request for as observer in the procurement process.

The groups are then asked to take not more 15 minutes to draft this letter.

At the end of the exercise, the speaker picks two of the most interesting lists, reads them to the class and then elicits comments from the class.

Slide 4

## Exercise 3

To be performed in groups with each group made up of 6 participants

- Make a list of as many private companies as you can whose procurement activities would fall within the scope of the Public Procurement Act 2007 & that you could address a request to seeking information that you require to report on your procurement monitoring activity

### Speaker Notes

The speaker starts Exercise No 3.

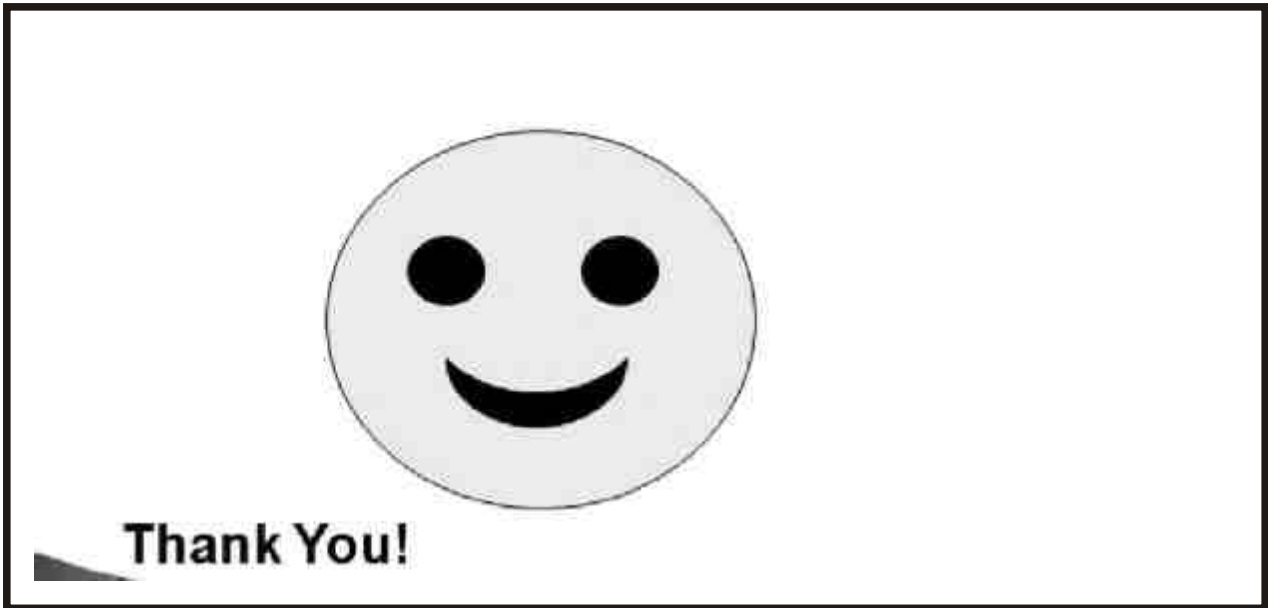
The class is to be divided into groups with each group made up of 6 participants each. The idea of 6 participants only per group is because what is required in the assignment is brain-storming.

The task for Exercise No 3 will be to make a list of as many private companies as you can whose procurement activities would fall within the scope of the Public Procurement Act 2007 and that you could address a request to seeking information that you require to report on your procurement monitoring activity.

The groups are then asked to take not more 15 minutes to draft this letter.

At the end of the exercise, the speaker picks two of the most interesting lists, reads them to the class and then elicits comments from the class.

Slide 5



Speaker Notes

The closes by asking for any questions, and thanking the participants.