

## NIGER STATE FISCAL TRANSPARENCY, ACCOUNTABILITY AND SUSTAINABILITY PROGRAM FOR RESULT (SFTAS)

## TWO DAY - 2 PHASE TRAINING SESSIONS TO ENHANCE SME'S PARTICIPATION IN PROCUREMENT PROCEDURES FOR CONTRACT AWARD BY NIGER STATE GOVERNMENT

15<sup>TH</sup> AND 22<sup>ND</sup> SEPTEMBER, 2020













#### **FIRST PAPER PRESENTATION**

#### TITTLED

## COMMON BREACHES IN PROCUREMENT PROCESSES, PENALTIES AND WAY-FORWARD

BY

## SHEHU JIBRIN PERMANENT SECRETARY NIGER STATE PUBLIC PROCUREMENT BOARD

#### INTRODUCTION

Common breaches in procurement processes entails the lapses realized from the review of the procurement documentation of activities undertaken by procuring entities using public funds to obtain goods, services and works contract right from the initiation memo, contract award and payment certification.

#### OBJECTIVE

At the end of this presentation, participant will be equipped with minimum documentation requirement in procurement processes that will enhance transparency, accountability and achieve value for money in Public Procurement.

#### **REQUEST FOR NO-OBJECTION TO ADOPT**

 This is an essential aspect in procurement since the common mechanism of public procurement is tendering and this depends largely on the market approach either using open (Advert) or limited market. The application of procurement method depends on the category of activity being procure either Goods, Works, Consultancy services and non consultancy services as per applicable threshold set by the Procurement Council of the State.

#### **GOODS/WORKS**

• Open Competitive Bidding

International Competitive Bidding

State Competitive

Selective (Restricted Competitive Bidding)

- Request for Quotation
- Direct Labour
- Direct Procurement

#### Consultancy

- Quality and Cost Based Selection (QCBS)
- Consultant Qualification Selection (CQS)
- Least Cost Selection (LS)
- Single Source

## **REQUEST FOR NO-OBJECTION TO AWARD**

Procuring entities are to ensure strict adherence of procurement processes as stated bellow;

- Request for no-objection to draft advert and bidding document *(Applicable to open competitive bidding)*
- Advertisement in two (2) widely read national dailies (Applicable to open competitive bidding)
- Request for quotation issued to three (3) prospective Suppliers/Contractors independently *(applicable to Request for quotation)*
- Constitution of evaluation committee an approval
- Minute of bid opening (*Applicable to open competitive bidding and request for quotation*)
- Quotations received
- Evaluation report and recommendation for award
- **Note:** Non adherence to the above listed process will lead to the declaration of mis-procurement on the part of the procuring entity.

## **REQUEST FOR NO-OBJECTION FOR ADVANCE PAYMENT**

Procuring entities are advised to seek Executive Council approvals for contract that have received no-objection to award from the Board before submission of request for mobilization. The following documentation should be strictly adhered to;

- Copy of Governor/ Executive Council approval.
- Copy of Publication of Contract award (Applicable to open competitive)
- Copy of award letter issued to prospective supplier/contractor
- Acceptance letter
- Signed Contract agreement
- APG/Insurance Bond duly verified from the originating organization

## **REQUEST FOR MILESTONE PAYMENT**

This outlines the series of documentation requirement for payment to Contractors/Suppliers for milestone payment and final payment

- Request for No-objection for Milestone payment duly backed up by interim payment certificates, backup calculation and progress report by the supervisory agencies.
- Procuring entities are advised to seek necessary approval for the utilization of Contingency sum embedded in Contracts from all stakeholders involved in the contract management.
- All variation orders are subject to approval by the Council on the basis of justification presented by procuring entities.
- Any request for final payment should be accompanied by Contract completion report, Request for final payment and interim payment certificate.

#### **OFFENCES**

- Open or tamper with and sealed bid or document and divulging contents
- Altering any procurement document with intent to influence outcome
- Using fake documents

- Delay screening for eligibility, opening of bids, evaluation and contract award
- Collusion and bid-rigging
- Procurement fraud
- Attempt to influence procurement process in order to obtain an advantage
- Split tenders to evade monetary benchmarks
- Refusing Board officers access to procurement records
- Withdrawing an accepted bid or refusal to accept award

#### PENALTIES

- Person who contravenes any provision of this Law commits offence and liable on conviction to term of imprisonment of 5-10 years without option of fine
- If corporate body or firm, barred from all public procurement for not less than 10 years and fine equal to value of procurement
- Officer of Board or PE who commits offence liable to term of imprisonment of 5 years without option of fine and summary dismissal from government service.

#### WAY-FORWARD

 Procuring entities should ensure strict adherence to the standard guideline for Goods, Works, and Consultancy Services issued by the NSPPB in order to guarantee transparency, accountability, value for money and efficiency in all procurement activities.

## SECOND PAPER PRESENTATION

#### TITTLED

## COMMON ERRORS COMMITTED BY SMES IN PUBLIC PROCUREMENT PROCEDURES AND HOW TO OVERCOME THEM

BY

## MUHAMMAD M. YAHAYA T.A PROCUREMENT NIGER STATE PUBLIC PROCUREMENT BOARD

#### OUTLINE

- Introduction
- Objective
- Common Errors Committed by SMEs in Public Procurement Procedures in line with Niger State Public Procurement Law 2010
- Best Practices to be adopted by SMEs in order to prepare a
   Responsive Bid
- Conclusion

#### INTRODUCTION

Public Procurement provided fair opportunities to Bidders in all categories of Procurement *(Works, Goods & Services)* on behalf of the Government in order to facilitate effective competition, Transparency, Accountability and guarantee value for money. Hence, the need to enlighten SMEs on the Common errors and omissions committed in Public Procurement Procedures.

#### OBJECTIVE

At the end of this presentation, participant should be equipped on Common errors committed by SMEs in Procurement Procedures, best practices that will facilitate increase participation and preparation of a responsive bid.

## COMMON ERRORS COMMITTED BY SMES IN PUBLIC PROCUREMENT PROCEDURES IN LINE WITH NIGER STATE PUBLIC PROCUREMENT LAW 2010

It has been observed over time, the errors committed by SMEs when participating in public procurement contracts. Some of these errors are listed below

• Failure to follow up on notices of bidding opportunities (Specific procurement Notice)

- Not Properly studying the Bidding Document requirement including the technical specifications
- Failure to request for clarification on bidding document and untimely submission of request for clarification
- Late Submission of Bids
- Inability to submit with the bids all requested documentary evidence supporting the requirement of the bidding document

## BEST PRACTICES TO BE ADOPTED BY SMES IN ORDER TO PREPARE A RESPONSIVE BID

This is an essential aspect to be noted by SMEs in order to prepare a responsive bid.

- SMEs are to ensure that they have registered with relevant regulatory agency of the State (NSPPB) in order to key into any Procurement Opportunity(ies) in Niger State.
- Identify the various medium of advertisement adopted by Procuring entities in Public Procurement.
- Follow up on procurement notices either on National Dailies, Procurement Journals and State Website <u>www.nigerstate.gov.ng</u> and <u>www.niger.stateopencontracting.com</u>
- Upon receipt of Bidding document, identify the Procurement method and qualification criteria as contained in Section 1 (Instruction to Bidders) and Section 2 (Special Instruction to bidders).
- Request for Clarification where necessary within the stipulated medium and time frame contained in ITB 8.1 of the Standard Bidding Document for Goods & Works
- Prepare their bidding document inline with the following Checklist
- Cover Page
- Properly signed Letter of Bid *(Section IV Bidding forms)*

- Bid security or bid securing declaration (if required)
- Line of credit
- Letter of Authorization or Power of Attorney
- Priced BEME or Schedule of Prices (As per applicable provision)
- Technical Specification (applicable for Goods only)
- Legal documentations including CAC, Memorandum and Article of Association, Latest Tax Clearance Certificate (as per requirement), VAT Registration, PENCOM, NSITF Certificates, NSPPB Certificate and Procuring Entity Certificate
- Evidence of Similar Job Executed (award and completion certificates)
- Summary of key personnel and comprehensive C.V's of each.
- Summary of equipment available for the assignment with evidence ownership status
- Audited Account for the last 3 years as per the requirement of the bidding document
- Technical Proposal including Site Organization, method statement, Construction and mobilization schedule, Contractors equipment and quality control plan (*applicable for works contract*)

## CONCLUSION

SMEs are encourage to follow up on procurement notices and key into the procurement opportunities in the State by adhering to instructions on the Bidding Document and seek for clarifications where necessary in order to prepare a responsive bid.

## **THIRD PAPER PRESENTATION**

#### TITTLED

## PROCUREMENT METHODS AND PROCEDURES FOR GOODS, WORKS AND SERVICES

BY

## ENGR. MUHAMMAD SULAIMAN LIMAN HEAD M&E DEPARTMENT NIGER STATE PUBLIC PROCUREMENT BOARD

#### OUTLINE

- Introduction
- Objective
- Essential steps in Public Procurement Process
- Procurement Methods and Procedures (Works and Goods)
- Consultancy Services Procedures
- Conclusion

## INTRODUCTION

- The main function of Government is to deliver services to its citizens. Government normally obtains the inputs i,e Goods, Works and Services through a procurement process.
- Therefore, a well-functioning procurement system in the State is indeed very critical to the timely delivery of Services to the people.
- Public procurement is simply referred to the acquisition of Goods, Works and Services with Public fund following the values and guiding principles of Accountability, Ethics, Impartiality, Professionalism, Service and Transparency.

#### OBJECTIVE

Understanding Public Procurement Methods and Procedures based on Niger State Public Procurement Law 2010 and Regulations 2014.

#### **ESSENTIAL STEPS IN PUBLIC PROCUREMENT PROCESS**

- Generally, the Public Procurement involves the following key steps, namely;
- Packaging of project
- Appropriation
- Procurement planning

- Advertisement for Pre-qualification
- Invitation of Tenders by the pre-qualified Bidders.
- Submission of Tenders by pre-qualified Bidders.
- Opening of Tenders
- Evaluation of Tenders (Bids) for the determination of a Successful Bid by the procuring Entity.
- Due Process Review by the Public Procurement Regulatory Authority.
- Execution of contract.
- However, depending on the nature, size and the Monitory threshold under which the procurement falls, some of the steps listed above may be skipped.

# PUBLIC PROCUREMENT METHODS AND PROCEDURES (WORKS & GOODS)

## OPEN COMPETITIVE

- Open competitive is generally regarded as default method (or preferred method) of Procurement. All Procurement of Goods, works and services shall be conducted through this method except where the law permits the use of other method based on some justification(s).
- This method offers equal opportunity simultaneously to all interested bidders.
- The use of any procurement method other than the open competitive bidding shall be subject to Procurement Board's prior review and approval.

## PROCUERMENT PROCEDURE FOR OPEN COMPETITIVE METHOD

 Resident Due Process Team (RDPT) meeting for discussing project conception and Procurement method

- Advertisement
- Bid opening Exercise
- Formation of Technical Evaluation Committee (TEC) by RDPT
- Pre-qualification Exercise
- Technical Evaluation
- Due diligence exercise inspection of plants, office and similar work done etc.
- Financial Evaluation
- Presentation and Adoption of TEC report by RDPT
- Request for Certificate of No Objection to award from Niger State Public Procurement Board (NSPPB) with the followings as attachment by the procuring entity (Evidence of above outlined steps).
- Compliance review exercise by Niger State Public Procurement Board
- Issuance of certificate of No Objection (CONO) to Award by the NSPPB.
- Procuring Entity (P.E) presents memo Executive Council/Governor for approval attaching NSPPB CONO to award and Niger State Planning Commission Budget Clearance.
- Executive Council/Governor's Approval.
- Award of contract by P.E
- Acceptance of Award and request for 25% mobilization from the contractor.
- Request for CONO to pay from the P.E to NSPPB with the following attachments
- Council/Governor's approval

- CONO to award
- Letter of award
- Acceptance letter
- Request for mobilization from the contractor
- Contract agreement
- Insurance Bond/Advance Payment Guarantee (APG)
- ► Issuance of CONO for payment (25% mobilization) by NSPPB.
- P.E present CONO to pay with other documents to the relevant authority for release of fund.
- ► Project execution commences by the contractor after mobilization.
- Subsequent requests for payments are backed up with a duly signed interim certificate of valuation throughout the end of the project.

#### SPECIAL AND RESTRICTED PROCEDURE OF PROCUREMENT

- Two Stage Tendering (Bidding)
- Selective (Restricted) Tendering
- Proprietary item Tendering (Request for Quotation)
- Direct Procurement
- Rapid Response
- Direct Labour.

#### **TWO STAGE BIDDING**

This type of Bidding is use for large and complex contract where it is necessary to, first, obtain greater clarity in technical specification and alternative approaches.

- The bidders will first be invited to submit technical offer without prices on the basis of the minimum operating and performance requirements.
- After technical clarifications and adjustments, followed by amended bidding documents, the bidders will be invited to submit technical and financial proposals in the second stage.

#### **SELECTIVE (RESTRICTED)**

This type of tendering is adopted for reasons of economy and efficiency thus, the Goods, works or services are available from a limited number of suppliers or contractors

# **PROPRIETARY ITEMS TENDERING (REQUEST FOR QUOTATION)**

- This type of tendering is adopted by requesting for Quotations from suppliers or contractors where the value of the Goods, Works or Services to be procured does not exceed a sum that shall be set in the procurement guidelines.
- Generally, quotations shall be obtained from three unrelated contractors or suppliers.

#### **DIRECT PROCUREMENT (SINGLE SOURCE PROCUREMENT)**

- This method of procurement is used to achieve standardization, compatibility with the existing goods, equipment, technology or services.
- Procuring entity applies this method of procurement when it has procured goods, equipment, technology or services from a supplier or contractor requires additional and also it is used for procurement that concern National Security.

#### **RAPID RESPONSE (EMERGENCY)**

This is an emergency procurement method applicable in the following situations

- The country is either seriously threatened by or actually confronted with a disasters catastrophe, war insurrection or act of GOD.
- The condition or quality of goods, equipment, building or publicly owned capital goods may seriously deteriorate unless action is urgently and necessarily taken to maintain them in their actual value or usefulness.
- A public project may be seriously delayed for want of an item of a minor value.

#### **DIRECT LABOUR**

- This is the procurement of civil works by a P.E using its own personnel, equipment and resources under its control for the execution of the works in question.
- The conditions that may necessitate the adoption of this type of procurement includes
- When the small size, nature and location of works are such that qualified contractors are unlikely to bid.
- ► When there are emergencies requiring immediate attention.
- interruption of an ongoing work due to breach of contract, community crises, threats to the contractor etc.

#### **CONSULTANCY SERVICES**

- The primary method for procurement of services shall be by open competitive bidding which is subject to threshold provided.
- It shall be by Expression of interest or Application to pre- qualify to provide the service by publishing a notice to that effect in at least two National Newspapers and procurement journal.
- If the service to be procured is less than one million or with the approval of the Board of such a low value that only local consultant would be interested the P.E should simply request at

least 3 and not more than 10 consultants or service providers to make proposal for the provision of the service.

#### **BASIC PROCEDURES FOR CONSULTANCY SERVICES**

- Preparation of the terms of reference (TOR)
- Preparation of the cost estimates(budget)
- Determination of the appropriate consultant selection method and appropriate contract type for the assignment.
- Preparation and publication of a request for Expression of interest (EOI) for the consulting assignment.
- After completion of the analysis of the EOI, preparation for a short

   list of qualified consultant.
- Preparation of a request for proposal (RFP) with the selection criteria in specific instructions, and the draft contract in particular with the special, conditions of contract, and issuing the package to the short – listed consultants.
- Public opening of the technical proposals.
- Evaluation of the technical proposals
- Public opening of the financial proposals.
- Selection of the best ranting proposal, followed by negotiations with the selected consultant.
- Awarding the contract to the selected consultant and signing agreement

#### CONCLUSION

SMEs are advised to adhered strictly to the provisions outline in the presentation in order to key into the opportunities in Public Procurement Contract in the State.

## FOURT PAPER PRESENTATION

#### TITTLED

## AN OVERVIEW OF THE NIGER STATE PUBLIC PROCUREMENT LAW 2010

BY

CHUKWUMA CHINAKA, ESQ A&E LAW PARTNERSHIP

#### **TO BE DISCUSSED**

- Definitions of public procurement
- Institutions & structures
- ► Functions & powers of the Council
- Objectives of NSPPB
- Functions of NSPPB
- Powers of NSPPB
- Resident Due Process Team
- Accounting Officer
- Scope of Application
- Fundamental Rules of Procurement
- Grounds for Exclusion of Bids
- Procurement Planning
- Procurement Implementation
- Open Competitive Bidding
- Invitation to Bid
- Bid Submission
- ► Bid Security
- ► Rejection of Bids
- ► Bid Validity
- ► Bid Opening
- Examination & Evaluation of Bids
- Domestic Preferences
- Mobilization Fees and Performance Guarantee

- Records of Procurement Proceedings
- Special and Restricted Methods of Procurement
- General Selection Procedure for Services
- ► Reviews by NSPPB
- ► Administrative Review
- Disposal of Public Property
- Code of Conduct
- ► Offences
- Conclusion

#### **DEFINITIONS OF PUBLIC PROCUREMENT**

FUNCTIONAL DEFINITION	PROCESS DEFINITION
<ul> <li>Procurement is defined as the acquisition of goods, <u>Works</u> and/or services at the BEST POSSIBLE TOTAL cost of ownership, in the Right</li> </ul>	The overall process of acquiring goods, works and services, from the identification of need to contract administration and through the end of a services' contract or the useful life of an

#### **INSTITUTIONS & STRUCTURES**

- Niger State Council of Public Procurement the Council (Policy Body) – S.3(1)
- Niger State Public Procurement Board NSPPB (the Regulator) S.5(1)

- ▶ Procuring Entity S. 2
- Due Process Offices & Desk Officers Ss.7(2), 17(3)
- ► Accounting Officer Ss. 2,22
- ▶ Resident Due Process Team S. 23
- Evaluation Sub-Committee of the Resident Due Process Team S.24(3)
- ► Disposing Entity S.57

#### FUNCTIONS AND POWERS OF THE COUNCIL - S.4

- Consider, approve and amend monetary and prior review thresholds;
- Consider and approve policies on public procurement;
- Approve the appointment of the Directors of the Board employment of the management and staff of Edo State PPA;
- ▶ Receive and consider for approval the audited accounts of NSPPB;
- Approve changes in the procurement process to adapt to improvements in modern technology; and
- other directives and functions as necessary
- ▶ NSBBP serves as secretariat of the Council S. 8(2)

#### **OBJECTIVES OF NSPPB – S.6**

- Harmonization of existing government policies and practices on public procurement;
- Ensure probity, accountability and transparency in procurement processes;
- Establish pricing standard and benchmarks;

- Ensure application of fair, competitive, transparent, value –formoney standards and practices for procurement and disposal of public assets;
- Attainment of transparency, competitiveness, cost effectiveness and professionalism in the public procurement system

#### FUNCTIONS OF NSPPB – S.7(1)

- ► Formulate general policies and guidelines for approval of Council;
- Publicize and explain the provisions of the Law;
- Subject to thresholds, certify State procurement prior to award of contract;
- ► Supervise the implementation of established procurement policies;
- Monitor the prices of tendered items and keep a database of standard prices;
- Publish the details of major contracts awards in the State Procurement Journal;
- Publish paper and electronic editions of the journal , manual etc.;
- Prepare and update standard bidding documents;
- Prevent fraudulent and unfair procurement and where necessary;
- Introduce, develop, update and maintain related database and technology;
- Establishment of a single internet portal that serves as a primary and definitive source of all information on government procurement;
- Perform procurement audits;
- Review the procurement and contract award procedures of every procuring entity; and

Coordinate relevant training programs to build institutional capacity etc.

#### **POWERS OF NSBBP - S.8(1)**

- ► Enforce monetary & prior review thresholds set by the Council;
- ► Issue "Certificate of No Objection" for Contract Award;
- Stipulate the procedures and documentation pre-requisite for issuance of "Certificate of No Objection"
- Debar any supplier, contractor or service provider that contravenes the Law and regulations made pursuant to it;
- Maintain database of contractors and service providers to the exclusion of all PEs, and prescribe classifications and categorizations for companies on the data base;
- Maintain a list of firms and persons debarred, and publish them in the procurement journal;
- Call for information, documents, records and reports of any procurement proceeding based on complaints against a PE
- Recommend to the Council disciplinary measures where there are persistent breaches of the Law , regulations or guidelines;
- Act upon complaints;
- Nullify the whole or any part of any procurement proceeding or award in contravention of the Law; and
- ► Do such other things as are necessary for the efficient performance of its functions under the Law.

#### **RESIDENT DUE PROCESS TEAM – SS.20, & 24**

- To be established in every Procuring Entity
- ► To be headed by the Accounting Officer or his representative;
- ► Other members include:

- ► The financial unit;
- ▶ PRS Unit Secretary;
- Technical Unit of P/E with expertise in subject matter for each procurement activity;
- ▶ Representative of NSBBP;
- ► Administrative Unit of PE; and
- ► A representative of the Stores Unit
- Subject to Council's approval, NSBBP shall prescribe guidelines for membership of RDPT;
- ▶ RDPT plans public procurement activities in every procuring entity;
- RDPT is responsible for award of procurements within thresholds in the guidelines;
- Where pre-qualification is necessary, the Evaluation Sub-Committee is set up headed by the Secretary of the RDPT;
- The decision of the RDPT is communicated to the Commissioner for implementation

#### ACCOUNTING OFFICER - Ss.2,18(21 & 22),22,24 19 & 55

WHO ARE THE A.OS?	RESPONSIBILITIES OF THE A.OS
<ul> <li>Ministries: Permanent Secretaries; and</li> <li>Departments and Agencies: the Director- General , General Manager, Executive Secretary or Officer of coordinate responsibility</li> </ul>	<ul> <li>Line supervision of the conduct of all procurement processes;</li> <li>Overall responsibility for the planning of organization of tenders, evaluation of tenders, and execution of all procurements:</li> <li>ensuring compliance and liable in person for breach or contravention, notwithstanding delegation of authority;</li> <li>Constituting the Resident Due</li> </ul>

	<ul> <li>Process Team;</li> <li>Ensuring that adequate appropriation is provided for procurement in the State's budget;</li> <li>Integration of procurement expenditure in State's yearly budget;</li> <li>Ensuring no reduction in value or splitting of bids;</li> <li>Constituting the RDPT's Evaluation Sub-Committee; and Liaising with the NSPPB to ensure effective implementation of its guidelines</li> </ul>
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## SCOPE OF APPLICATION: SS.2, 17(1 & 2) & 57

Applies to the procurement of ALL goods, works or services carried out by the State Government , Local Governments and ALL procurement entities

## **EXCEPTIONS:**

- Constituency projects;
- ► Ward Development Funds; and
- Procurement of special goods, works and services involving security save with Governor's express approval.
- ► Applies to disposal of public property
- ► Every procuring entity shall also be a disposal entity
- Procuring entity means any public body engaged in procurement and includes a ministry, department or agency

## FUNDAMENTAL RULES OF PROCUREMENT – S.18

> To be conducted :

- Subject to prior review thresholds;
- Based only on procurement plans to be supported by prior budgetary appropriations and no of proceedings until there are funds to meet obligations and subject to thresholds, obtaining a 'Certificate of No Objection'
- ► To be by open competitive bidding (OCB);
- ▶ In a transparent, timely and equitable manner;
- ► To achieve value for money and fitness for purpose
- In a manner which promotes competition, economy and efficiency;
- In accordance with procedures and timelines under the Law and as specified by NSPPB.
- Subject to thresholds, no contract shall be awarded without a 'Certificate of No Objection'
- Supplier, contractor or service provider may be a natural person, a legal person or a combination of the two acting jointly and severally
- In addition to requirements in solicitation documents; bidders shall possess:
- Professional and technical qualifications;
- Financial capability;
- Equipment and other infrastructure;
- Adequate personnel to perform obligations;
- Legal capacity;
- Not in receivership, subject of insolvency or bankruptcy proceedings;

- Fulfilled all obligations to pay taxes, pensions and social security contributions;
- Not have any director convicted in any country for offence relating to fraud or financial impropriety, criminal misrepresentation or falsification of facts; and
- ► Accompany every bid with an affidavit.
- Bidder to provide documentary evidence or other information the P/E considers necessary;
- ► All communications and documents are to be in English language;
- All communications shall be in writing and such other form stipulated by NSPPB
- Every PE shall maintain both file and electronic records of proceeding for every financial year for a period of ten years from award;
- ▶ PEs to transmit procurement data to NSPPB;
- Unclassified information to be open to inspection by the public at the cost of copying, certifying and administrative charges;
- Criteria stipulated as the basis for evaluation shall not be changed during the proceeding;
- The burden of proving fulfillment of the requirement for participation lies on the bidder;
- Contract to be awarded to the lowest evaluated responsive bid from substantially responsive bids
- NSPPB may refuse to issue 'Certificate of No Objection' if price is excessive and direct outright cancellation or a re-tender of the proceedings;
- Procurement and disposal decisions to be in strict adherence to the Law and regulations

- Any person engaged in preparing any part of procurement proceedings may not bid or cooperate with bidders in preparing their tenders;
- A PE should not request a bidder to engage the services of a particular sub-contractor;
- All contracts are to contain provisions for arbitral proceedings as the primary form of dispute resolution ;
- Monetary values of procurement contracts to be stated in Nigerian currency, if otherwise converted using the prevailing CBN rate as at the day of bid opening; and
- All contract are to contain warranties for durability of goods, exercise of requisite skills and use of genuine materials and inputs in execution

## **GROUNDS FOR EXCLUSION OF BID – S. 18(8 & 9)**

- Verifiable evidence that bidder has promised or given a gift of money or tangible item or any other benefit that can be qualified in monetary terms inorder to influence procurement decisions;
- Three years to proceedings, failure to perform or provide due care in performance of performance of any public procurement;
- Being in receivership or any type of insolvency proceedings or subject to any bankruptcy proceedings or declared bankrupt or made compromises with creditors within two years prior to initiation of proceedings;
- Being in arrears regarding payment of due taxes, charges, pensions or social insurance contributions except with a lawful permit;
- Conviction for a crime in connection with a procurement proceeding or to gain financial profit;

- The bidder has in its management or partly/fully owned by a person convicted for any procurement proceeding or to gain financial profit;
- Failure to submit a statement regarding its domination or subsidiary relationship to other bidders in the proceedings or subordinate relationship with other participant



#### **PRINCIPLES OF PUBLIC PROCUREMENT**

#### **PROCUREMENT PLANNING – S.20**

- ► Subject to regulations, PEs plan their procurement by:
  - Preparing the needs assessment and evaluation;
  - ► Identifying the goods, works or services required;
  - Undertaking market and statistical survey for preparation of cost implications of proposed procurement;
  - Aggregation of requirements to obtain economies of scale and reduce procurement cost;

- Integration of proposed procurement expenditure into yearly budget; and
- ▶ Prescribing method for effecting procurement.
- Procurement planning functions are to be carried out by the Resident Due Process Team

#### **PROCUREMENT IMPLEMENTATION – S.21**

- ► Subject to regulations, PEs implement their procurement plans:
  - Advertise/solicit for bids;
  - Invite two credible persons as observers with one representing a recognised private sector professional organization and the other , a non-governmental organisation working in transparency, accountability and anti – corruption areas;
  - ▶ Receive, evaluate and make a selection of bids;
  - Obtain approval of the approving authority before making an award;
  - Debrief unsuccessful bidders on request;
  - ▶ Resolve complaints/disputes if any;
  - Obtain and confirm the validity of any performance guarantee;
  - ► Execute the Contract Agreement; and
  - ► Announce and publicize the award

#### **OPEN COMPETITIVE BIDDING – SS. 2 & 26**

- Default method of procurement
- Means the process by which a procuring entity based on previously defined criteria, effects public procurements by offering to every interested bidder equal simultaneous

**information and oppurtunity** to offer the goods, works or services needed

Winning bidding is that which is the lowest evaluated responsive bid which has been responsive to the bid with regards to work specification and standard

STATE COMPETITIVE BIDDING	INTERNATIONAL COMPETITIVE BIDDING
<ul> <li>Notice board of PE;</li> <li>Any official website of the procuring entity;</li> <li>State procurement journal; and</li> <li>At least two national newspapers</li> </ul>	<ul> <li>At least two (2) national newspapers;</li> <li>One relevant internationally recognised publication;</li> <li>Any official websites of PE and NSPPB; and</li> <li>State procurement journal</li> </ul>
<ul> <li>Submission to be not less than two weeks or more than six weeks from date of invitation</li> </ul>	<ul> <li>Submission to be not less than six weeks from date of invitation</li> </ul>
NSPPB shall set the monetary to shall fall under either system	hresholds for which procurements

#### **INVITATION TO BID – S.27**

#### **BIDS SUBMISSION – S.29**

- To be submitted in writing or any other format stipulated in tender documents;
- To be signed by an official authorised to bind the bidder and placed in a sealed envelope;
- ▶ To be deposited and kept in a secured tamper-proof bid box;
- ► To be submitted in English Language;
- PE to issue a receipt showing the date and time the bid was delivered;

- Bids received after submission deadline shall not be opened but returned unopened to bidder
- No communication is to take place between procuring entities and bidder after publication of a bid solicitation, save as provided under the Law

#### **BID SECURITY – S.28**

- Subject to monetary and prior review thresholds, procuring entities may require a bid security in an amount not more than 10% of the bid price by way of a bank guarantee;
- ▶ Board specifies the principal terms and conditions for bid security;
- ▶ If bid security is required, it shall apply to all bidders

#### **REJECTION OF BIDS – S.30**

- PE may reject any bids at any time prior to the acceptance of a bid without incurring any liability to bidders; and
- Cancel the procurement proceedings in the public interest without incurring any liability to the bidders

#### **BID VALIDITY – S.31**

- ▶ Bid validity period to be specified in the tender documents;
- PE may request bidder to extend bid validity period;
- Bidder may refuse the request and effectiveness of bid will terminate upon the expiry of the un-extended period of effectiveness;
- Bidder may modify or withdraw its bid prior to submission deadline;
- Modification or notice of withdrawal is effective if received before submission deadline
- Contract must be made within the bid validity period S.32

#### **BID OPENING – S.32**

- ► Only bids submitted before submission deadline shall be opened
- ► At bid opening:
  - attendees are to examine envelopes to ascertain that bids have not been tampered with;
  - ▶ bids to be opened in public;
  - Bid opening to take place immediately after submission deadline or any extension thereof;
  - A register of all present and organizations they represent are to be taken and recorded by the Secretary RDPT;
  - There will be a call-over to the hearing of all the name and address of each bidder, the total amount of each bid, the bid currency all to be recorded by the Secretary of RDPT or his delegate in the minutes of bid opening

#### **EXAMINATION & EVALUATION OF BIDS – SS. 33 – 35**

EXAMINATION	EVALUATION
<ul> <li>Bids are examined to determine if: <ul> <li>It meets the minimum eligibility requirements;</li> <li>Been duly signed;</li> <li>Substantially responsive to the bidding documents;</li> <li>Is generally in order</li> </ul> </li> </ul>	<ul> <li>No other criteria shall be used other than except those stipulated in the solicitation documents</li> <li>objective of bids evaluation:         <ul> <li>Goods &amp; works: select the lowest cost evaluated responsive bidder from responsive bidders</li> </ul> </li> </ul>
<ul> <li>Selected bidder need not be the can show good grounds derived</li> <li>Notice of bid acceptance shall in successful bidder</li> </ul>	

## **DOMESTIC PREFERENCES – S.36**

- Granted during evaluation when comparing tenders from domestic bidders with those from foreign bidders or domestic suppliers offering goods manufactured locally with those offering goods manufactured abroad
- Bid document to clearly indicate preference to be granted to domestic bidders and criteria for eligibility of such preference
- ► Applies only to tenders under international competitive bidding
- NSPPB sets the limits and the computation of margins of preference

# MOBILIZATION FEES & PERFORMANCE GUARANTEES – SS.37 – 38

MOBILIZATION FEES	PERFORMANCE GUARANTEES
<ul> <li>In addition to any other regulations, Not more than 25% to be paid</li> </ul>	<ul> <li>Pre-condition for award of contract if mobilization fees is to be paid</li> </ul>
<ul> <li>SCB: an unconditional bank guarantee or insurance bond issued by institution acceptable to P/E</li> <li>•</li> </ul>	<ul> <li>Not to be less than 10% of contract value or amount equivalent to mobilization fee requested whichever is higher</li> </ul>
<ul> <li>ICB: an unconditional bank guarantee issued by a reputable banking institution acceptable to PE</li> <li>•</li> </ul>	•
<ul> <li>After A/P, no further payment s without an IPC</li> </ul>	•

### **RECORDS OF PROCUREMENT PROCEEDINGS – S.40**

- PEs are to maintain comprehensive records of procurement proceedings
- To be made available to any person/bidder after a bid has been accepted or terminated without resulting in a contract
- ▶ PEs not to be liable for failure to maintain a record of proceedings
- Records maintained are to be made available to NSPPB, an investigator appointed by NSPPB and Auditor-General upon request or to donor officials if donor funds were used

#### SPECIAL AND RESTRICTED METHODS OF PROCUREMENT

- Two Stage Tendering S.41
  - Where not possible to formulate detailed specifications for goods & works, and characteristics for services;
  - Character of the goods & works subject to rapid technological advances;
  - Tendering proceedings were not successful or rejected
- Restricted Tendering S.42
  - Available only from a limited number of suppliers or contractors;
  - Time and cost involved disproportionate to value of procurement subject matter; &
  - Procedure is used as an exception rather than the rule
- Request for Quotations– S.43
  - Value of procurement does not exceed a sum set in the guideline

- ► Direct Procurement S.44
- ► Emergency procurement S.45

### **GENERAL SELECTION PROCEDURE FOR SERVICES – S.52**

- ► The proposal with:
  - ▶ The lowest cost evaluated price; or
  - The best combined evaluation in terms of the general criteria set out in the request for proposals and price quoted

#### **REVIEW BY NSPPB – S.55**

- NSPPB may review and recommend for investigation of procurement proceedings by a PE
- Such investigation arises if necessary or desirable to prevent or detect a contravention of the Law
- NSBBP may issue a variation order requiring a contractor to repair, replace or do anything left undone in his contract as required by contract
- ▶ If satisfied that there is a contravention, may rectify it by:
  - Nullification of proceedings; or
  - ► Cancellation of contracts; or
  - ▶ Ratification of anything done in relation to proceedings; or
  - ► A declaration consistent with the Law
- On completion of investigation, if a crime is disclosed, steps will be taken to commence prosecution

#### **ADMINISTRATIVE REVIEW – SS.56 – 57**

Bidder may seek administrative review for any omission or breach by a PE , disposing entity or NSPPB

## Procedure for complaints against a procuring or disposing entity:

- Bidder to submit complaint in writing to Accounting Officer by bidder within **15 working days** of incident or knowledge of it
- ► A.O. to make a decision in writing within **15 working days**;
- If bidder unsatisfied, may make a complaint to NSPPB within 10 working days from date of communication of A.O's decision;
- ▶ NSPPB is to take representations from PE and bidders;
- NSPPB to make its decision within 21 working days after receipt of complaint stating reasons for its decisions and remedies granted if any;
- If NSPPB fails to deliver decision within stipulated time or bidder unsatisfied with decision, he may appeal to the High Court within **30 days** of receipt of NSPPBs decision or expiration of time stipulated for NSPPB to make its decision
- ► High Court is to dispose of such cases expeditiously

#### **DISPOSAL OF PUBLIC PROPERTY – S.57 & 58**

- ► Every PE is a disposing entity
- ► OCB is the primary source for receiving offers for purchase for sale
- NSPPB with Council's approval determines policies & practices, issues guidelines, standardized documents, monitor implementation etc.

#### Public Property (tangible & intangible):

- created through public expenditure;
- ► acquired as a gift through deeds;
- ► acquired in respect of intellectual or proprietary rights;

- acquired on financial instruments (shares, stocks, bonds etc.); and
- acquired by goodwill or any other gifts of the State Government

#### Means of disposal:

- ▶ sale and rental;
- ► lease and hire purchase;
- ► licenses and tenancies;
- ► franchise and auction;
- ► transfer from one government department to another ; and
- ▶ offer to the public at an authorized variation

#### **CODE OF CONDUCT – S.59**

- NSPPB with approval of Council shall stipulate a Code of Conduct for all public officers, suppliers, contractors and service providers
- The Codes are with regards to acceptable standards of conduct in matters involving the procurement and disposal of public assets
- The conduct of all persons involved in public procurement shall be governed by the principles of honesty, accountability, transparency, fairness and equity
- All officers of NSPPB, RDPT, and **other persons** involved in the conduct of public procurements shall subscribe to an oath approved by the Council

#### **OFFENCES – S.60**

Any natural person not a public officer that contravenes the Law commits an offence and liable on conviction to 5 calendar years imprisonment but not exceeding 10 calendar years without an option of fine

- Offences are to be tried by the High Court
- Offences include:
  - entering or attempting to enter into a collusive agreement whether enforceable or not;
  - conduct or attempt to conduct procurement fraud;
  - directly or indirectly attempting to influence procurement process;
  - splitting of tenders;
  - ► bid rigging;
  - ► Altering any procurement document;
  - Willful refusal to allow NSPPB or its officers to have access to any procurement records
  - Any legal person in contravention of the Law is liable on conviction to a cumulative penalty of:
  - debarment from all public procurement for a period not less than 5 calendar years; and
  - ▶ a fine equivalent to the value of the procurement in issue .
  - ► If a legal person is convicted, every director of the company shall guilty of an offence and liable on conviction to imprisonment of not less than 3 calendar years but not exceeding 5 calendar years without an option of fine

#### CONCLUSION

- All persons involved in public procurement proceedings (public or private) have a duty and obligation under this Law to abide and uphold its provisions
- This would help the State Government to work better with contractors, complete more projects, allow reasonable profits, achieve value for money, and attain the objectives of the Law.

If procurement reforms fail...The blame of failure will go round.

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LIST OF PARTICIPATING SMEs BUSINESS EDUCATIONAL SIGN S/N COMPANY NAME CONTACT PERSON SIGN IN CONTACT NUMBER EMAIL ADDRESS ADDRESS QUALIFICATION OUT -Donustal Hayara Haja Hayans 070396514 ND 6 einen mma NO 14 abas Mulgani Bagnoy BSC 0803230 Acrusal. Sup MOD 8937 Riv Ed com cur. 0863825 Mar Abd MBA abdullahi foride AD ulian akankn Finance 9562 U20150 gnartion · Norkag: ente Diphong 080 folder 22086280 alba NO Felix Aques Mus Housie Holder  $\cup$ lisc le Amail.com Rida WSIKR TITA Salagrey 381620 BSC agmai

s/N	COMPANY NAME	BUSINESS ADDRESS	CONTACT PERSON	EDUCATIONAL QUALIFICATION	CONTACT NUMBER	EMAIL ADDRESS	SIGN IN	SIGN OUT
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13	DOBRY NIG LID	KADA RD WARRANDO KABUNA	Aligu T. Des	B.GNG	0803201779 68070790123.	aling vtarkater	Hele	Ha.
14	NIMERIC	No 5 Peter sarki Road Tunga ming	19		0 8036357688	•	4	Aris.
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16	FR READELS	12 Miles			08-36584	Sum oher	Ør	Æ
17	Ng0go tyro Albed	Ogness of the Winne	Hohe Malmard	B. A. in English	07033520966	Momouramal sul	Her	put?
8	OSANU 21000 BUSINESS MUTILINKS	OPPN ALCER STATE SUPPLY CO: M.NNA	Moses ISAAC	ND Copsei	081673368	atipada o sa ny Ogmoul co	Gal.	<b>A</b>
9	CHADU GLOBAN ENTERPRISES		MADIKI ZATWAB	BSC Computer	0813118696	Zagnalomodela Ogunzulican	Dun	Den
20		NUSTEN	Nibrammen Sulamon	B TECH I.T.E	80268798 U	Zineerahl7 & gmail.com	A Cu	NO.

	14		LIST OF PARTIC	CIPATING SMEs				
S/N	COMPANY NAME	BUSINESS ADDRESS	CONTACT PERSON	EDUCATIONAL QUALIFICATION	CONTACT NUMBER	EMAIL ADDRESS	SIGN IN	SIGN OUT
21	LOOLER CILOBAL SELVICES	LL 21 UN ISALHASSAM DOAD. AND DOAD. AND DOAD. AND DOAD. AND MINN	MOAAmmed	Boutans	30349344	ILABID WOHT		At .
22	Zaind Horo Commodil Ent: Services	Angwan Madalci Bosso	Zaens Abubaka	55.C.2	0726934	alles of gales	Zant	μZ
23	GRARAGI	MARCAL CON	LATTARA 240.	Beal	07035564995		B	B.
24	Dansari agno allied Services	KIBU 95B, Koffin Tella, Tung 9, Minna	Anichiet Abasido	B.SC. Borlany	08036422112	anielsiefaaule gmail, com	A STATE	-
25	Sallynaasy global Services	Diste Kang	Nol Salome Mashe Kold	LL.B BL	0803651945	Sallynaash Gryaho. br	sta	Jel

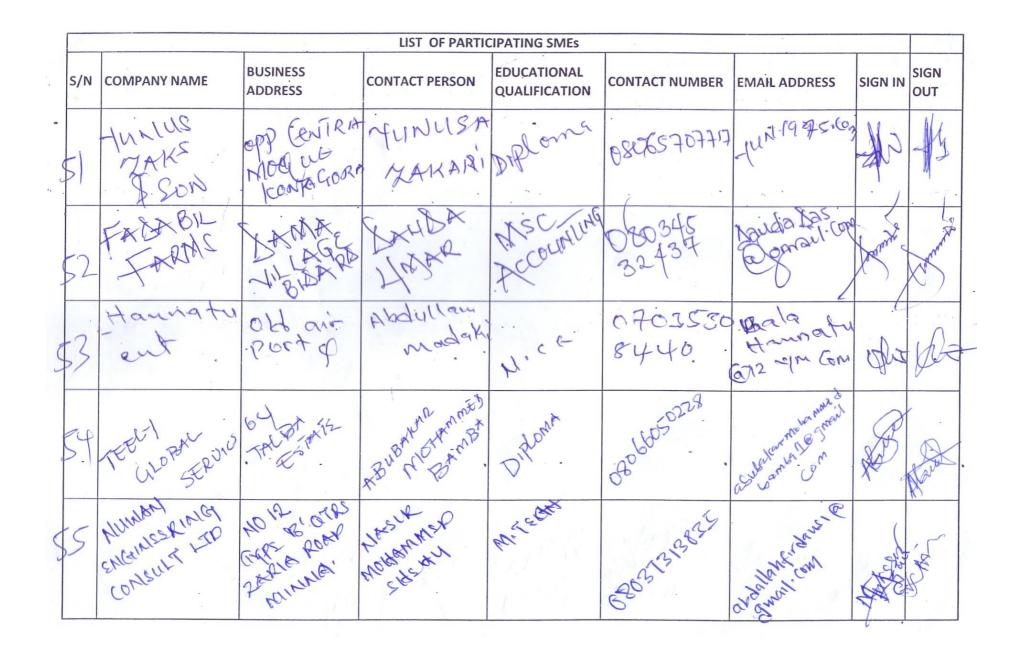
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+		Bosso Lou Cost minn	Tijon Sulenn	BSC. Enga			N. A.	it is
Z	E & A CIOLDERA CILOBAL LID	Nostern B-Je pass Minng.	Alice Aligue (mrs)	Mey	08635853113	dicedustinos Com	A start	A Bra
9	KORIYA	BIDA NUGER STATE	ME ISAAC MAMMAN	MSC	APPORTO	ennature: rik@gmaili com.	Accel	AUG
9	ZIIVONUS & CO Enterprises	Kontayon	Alle Adams Romat Abubaker	PED	08034511254		Sprange	ffang

s/N	COMPANY NAME	BUSINESS ADDRESS	CONTACT PERSON	EDUCATIONAL QUALIFICATION	CONTACT NUMBER	EMAIL ADDRESS	SIGN IN	SIGN OUT
3)	PHALWAL Uter TREE	BOSPO ESTATE MINNAT NU LER STATE	UMAR DAROUQ LAWAL	F11281 DEGIZEE	081079888	FAROUQLAWA	NUH	AN IN
32	MUSASA	DUNA TE		Constant 16	0803687757	mancilon	-71	-X
33	MUHZANI SKITER PRISO	HASSANI TAHATA CLOSE	HARDING	Frester Betake	6800411900		And the second	Bright
5.4	MAS GLOBAL VGATURES	NOO I Awwal Ibrahim Road Off Olkada Road	Masheyu Ahmia] Suleiman	BSC.	07036017232	Jan Son Son	Bury .	Ch ,
	AL-HAM ASSORTED	NAND ELA ROAND	ABDULLAUTP LAGESEE	BBA (MARIKETING	07037062975	Machy Cloyabr	ARE	Â

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36	Gudaei farms	Kon S copei Gward minns	Alines A Thomas	BSC Bus Adw	07032995959	gudaeifarms. D Jahos. com	Aug	Alm
37	GULAP GERIERAL RESOURCES	NO 10 ARU SUE ROAD LAPAINEM STARE	All-Abchillan Hidegi	B.GD (TECH)	0706128488	aschellahnekg 4888. g mein Com	At	An
38	MARMU BUA CRITER PRISES	Koropan behind primary School Minna.	Salisu Angaryam Buhan	B-A History	08164425855	meerysallevill gmail.com	naf.	
39	LODCHY NIG. LTD	S.E 193 Kuta Road ninna	Emmanuel Loyin	B. Sc Accumbury	080673944 97	loginemma Ogmalili Com	and a	they want
to	VENTURES	No. 33 Gwari Road Minna Wiser State	Abdullahi Alfa Ntuhammad	B. Sc Leonomics	08134922177	abellgentledgmail. Com	tim	Amil

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f2	MKI ENT(MIG) LIMITED	AN F.G.C. MINNA	Alloji Lawal Mahmud	A.B. U.	07088868 276	Wilos que @ gmail. com	Ca	
B	M X J Le Services	THE COM	JAHAR CHARD	Hacht	0305859072	Byting 2 M	ARAL	John Star
ť	Chemisi INEVERSEE	Lajos .hit.M. by paps	Lawalm Ati	ry Hard	07035807920	Lave Lingel	H	Central Centra
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s/N	COMPANY NAME	BUSINESS ADDRESS	CONTACT PERSON	EDUCATIONAL QUALIFICATION	CONTACT NUMBER	EMAIL ADDRESS	SIGN IN	
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f7	Mamu Bussen Centre	MINNS	Maimune Dom lami		45	busse Centre	00m	
PS.	Deerat poulting & feet	MJ Wyshishi Geter MX	Hodizat Molannol Sambi	Diploma	081277347 43		A Contraction	A Contraction
t9	SAMEE Ventures	Minna	SANI Aldulradunan	B. Tech	09039939616	gnarl Com	frue on	Hung
50	LOLA'S NORLD	BOSSO ELWARDEL ESTATE	OMOLOWA Hertal DAVULEL	3 TECH EDUCATION	07042182259	Acutoment Com	H.	



LIST OF PARTICIPATING SMEs								
5/N	COMPANY NAME	BUSINESS ADDRESS	CONTACT PERSON	EDUCATIONAL QUALIFICATION	CONTACT NUMBER	EMAIL ADDRESS	SIGN IN	SIGN OUT
56	Martann Enterprose	Gurare 13ido roa Migersi		B.ED Aduct/tol	080657896	Marjam Ladan A Muhammed @.gmail. (o	ese.	off-
7	Salinus.G- INIET		Dor N.	жч	6366584376		â	R
8.	REJUCOM Enterprises	Mechanic Junction charchange Minne	Comfort Kolo	UND Bos Admin	08038251834	Mastelishald m Mastelishald m	Rob	Head
9	NDAZAIRI RENERAL SERUCES	Juisen Kurch Monrot	Stone se 2 Hurs 1	Bse	8806533125	1 1 1 1 1 1 1		
,0	Wahis Entreprises	Y. 43 Donoh Moze for	Abdut cin Salisu Wat	Mse	080353085	alteralite R grail. (*	2A	Sil

2	COMPANY NAME	BUSINESS ADDRESS	CONTACT PERSON	EDUCATIONAL QUALIFICATION	CONTACT NUMBER	EMAIL ADDRESS	SIGN IN	SIGN OUT
1	Molina	Molonia	Moho.	Wet	08038 872223	of mail.on	Her	About
,2	HAJARA MAIRAMO Hajo ARIS	BUSSO lowcost house alo 35	Hajarci Machano	PGP	07038626580	Cajara 488	(text	HAR
3	Umaima Medicine Serviece Ltd	Bosso	Aishat 1.brahim	Jchew	08039151957	batulabintabdu 11ah 20 Gr Gmail .com	Fund	Fing
f		2 a 1			•		J.	J.
5	MATTALL SILANTESIC CONEPI LID	Mong Street	At. M. Bil	P. G' Denpore	05036745600	Estramachuser, w	A A	A A A A A A A A A A A A A A A A A A A

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56	RAHMAT	HOUSE A BRIGHTER DECTERNY DECTERNY NEY-PINES		3.		CO.V .	vafa	Port .
	ATTA AT INT. CON.	A States of	tron thousand	HAD WARST	070619976926	Jose Cmarlina	XC	Ż
Z	ATTA IN Statue them Globbel	HO PRILLING		Mr Aron.	0708163 9861×	Mouter trunk Com	(Helo	upper
9	Nola bee		LAWA Salui	Bisc	67023754243		b	Q
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