

DELTA STATE PUBLIC PROCUREMENT COMMISSION LAW

PART X - PROCUREMENT SURVEILLANCE AND REVIEW

Power of commission to recommend investigation

54. (1) The Commission may review and recommend for investigations by any relevant authority any matter related to the conduct of procurement proceedings by a procuring entity or the conclusion or operation of a procurement contract if it considers that a criminal investigation is necessary or desirable to prevent or detect a contravention of this Law.

(2) The relevant authority may in the course of investigation:

- (a) require an officer, employee or agent of the procuring entity or bidder, supplier, contractor or consultant to produce any books, records, accounts or document;
- (b) search premises for any books, records, accounts or documents;
- (c) examine and make extracts from the copies of books records, accounts or documents of any procuring entity, bidder, supplier, contractor or consultant;
- (d) require an officer, employee or agent of the procuring entity, bidder, or supplier to:
 - (i) explain an entry in the books, record, accounts or documents;

(ii) provide the investigator with information concerning the management or activities of the procuring entity or bidders as may be reasonably required.

(e) explain an entry in the books, records, accounts or documents.

(3) The Commission may, pursuant to the advice of the procuring entity, result of the review of a procurement or report of investigation by a relevant government agency, issue a variation order requiring a contractor at his own expense to replace, or to do anything in his or her contract left undone or found to have been carried out with inferior or defective materials or with less skill and expertise as required by the contract of award.

(4) The Commission shall, if satisfied that there has been a contravention of this Law or any regulation to procurement proceedings or procurement contract, take action to rectify the contravention which action shall be:

(a) nullification of the procurement proceedings;

(b) cancellation of the procurement contract;

(c) ratification of anything done in relation to the proceeding; or

(d) a declaration consistent with any relevant provisions of this Law.

(5) On completion of the investigation, the relevant authority shall, if an offence disclosed, take all necessary steps to commence prosecution and inform the Commission and the procuring entity accordingly, but where no offence is disclosed, the file shall be closed and the Commission and procuring entity shall be duly informed.

Administrative Review

55. (1) A bidder may seek administrative review for any omission or breach under the Administrative provisions this Law or any derivative documents under this Law by a procuring or disposing entity.

(2) A complaint by a bidder against a procuring or disposing entity shall first be submitted in writing to the accounting officer within fifteen working days from the date the bidder first became aware of the circumstances giving rise to the complaint or should have become aware of the circumstances, whichever is earlier.

(3) On reviewing a complaint, the accounting officer shall make and communicate a decision in writing within fifteen working days, indicating the corrective measures to be taken if any, including the suspension of the proceedings where necessary and giving reasons for his decisions.

(4) If the bidder is satisfied with the decision of the accounting officer, the bidder may make a request to the Commission within ten working days from the date of communication of the decision of the accounting officer.

(5) Upon receipt of a complaint, the Commission shall promptly:

(a) give notice of the complaint to the respective procuring or disposing entity and suspend any further action by the procuring or disposing entity until the Commission has settled the matter;

(b) unless it dismisses the complaint:

I. prohibit a procuring or disposing entity from taking any further action;

II. nullify, in whole or in part, an unlawful act or decision made by the procuring, or disposing entity;

III. declare the rules or principles that govern the subject matter of the complaint; and

IV. revise an improper decision by the procuring or disposing entity or substitute his own decision for such a decision.

(6) Before taking any -decision on a complaint, the Commission shall notify interested bidders of the complaint and may take into account representations from the bidders and the respective procuring or disposing entity.

(7) the Commission shall make its decision within twenty-one working, days after receiving the complaint, stating the reasons for the decisions and remedies if any.

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