

DELTA STATE PUBLIC PROCUREMENT COMMISSION LAW

PART XIII - OFFENCES

Offences relating to public procurement

59. (1) Any person not being a public officer who contravenes any provisions of this Law commits an offence and is liable on conviction to a term of imprisonment not less than five years but not exceeding ten years without an option of fine.

(2) Any offence in contravention of this Law shall be tried by the High Court of the state with written consent of the Attorney-General of the State first sought and obtained.

(3) The following shall also constitute offences under this Law:

(a) entering or attempting to enter into a collusive agreement, whether enforceable or not, with a supplier, contractor or service provider where the prices quoted in their respective tenders, proposals or quotations are or would be higher than would have been the case had there not been collusion between the persons concerned;

(b) to conduct or attempt to conduct procurement fraud by means of fraudulent and corrupt acts, promises, threats, unlawful influence, undue interest, agreement, corruption bribery or other actions;

(c) to directly, indirectly, or attempting to influence in any manner the procurement process, to obtain an unfair advantage in the award of a procurement contract;

- (d) splitting of tenders to enable the evasion of monetary thresholds set;
- (e) bid rigging;
- (f) altering any procurement document with intent to influence the outcome of a tender proceeding;
- (g) altering or using fake documents or encouraging their use; and
- (h) willful refusal to allow the Commission or its officers to have access to any procurement records.

(4) whilst carrying out his duties as an officer of the Commission, or any procuring entity, who any provision of this Law commits an offence and is liable on conviction to a cumulative punishment of:

- (a) a term of imprisonment of five years or an option of fine; and
- (b) summary dismissal from government service.

(5) Any legal person that any provision of this Law commits an offence and is liable on conviction to- a cumulative punishment of:

- (a) debarment from all public procurements for a period not than five years;
- (b) a fine equivalent to the value of the procurement in issue.

(6) any legal person is convicted in pursuant to subsection (5) of this section every director -of the company as listed on its records at the Corporate Affairs Commission shall be guilty of an offence and is liable on conviction to a term of imprisonment not less than three years but not exceeding five years without an option of fine.

(7) The alteration pursuant to sub-section (3) (f) shall include:

(a) insertion of documents such as Bid Security; or Tax Clearance Certificate which were not submitted at bid opening; and

(b) request for clarification in a manner not permitted under this Law.

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