



EBONYI STATE OF NIGERIA

LAW NO. 003 OF 2021

EBONYI STATE
PUBLIC PROCUREMENT
(AMENDMENT) LAW, 2021



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EBONYI STATE
PUBLIC PROCUREMENT (AMENDMENT)
LAW, 2021

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EBONYI STATE OF NIGERIA
LAW NO. 003 OF 2021

SECTION 1

ALAW TO AMEND EBONYI STATE
PUBLIC PROCUREMENT LAW, NO.
016 OF 2020 AND OTHER MATTERS
CONNECTED THERETO. *Long Title*

SECTION 2

BE IT ENACTED by the House of Assembly
of Ebonyi State of Nigeria as follows: *Enactment*

SECTION 3

This Law shall be cited as Ebonyi State Public
Procurement (Amendment) Law, 2021. *Short Title*

SECTION 4

This Law shall be deemed to have come into effect
on Friday the 7th day of May, 2021. *Commencement*

SECTION 5

Section 20 of Ebonyi State Public Procurement and Related Matters Law, No. 016 of 2020 is amended by adding subsection 1 (d) - (h) as follows:

*Amendment of
Section 20*

- d. Suppliers or contractors shall be permitted to participate in procurement proceedings without regard to nationality, except where the procuring entity decides to limit participation in procurement proceedings on the basis of nationality on grounds specified in the procurement regulations or other provisions of Law of this State;
- e. Except when authorized or required to do so by the procurement regulations or other provisions of Law of this State, the procuring entity shall establish no other requirement aimed at limiting the participation of suppliers or contractors in procurement proceedings that discriminates against or among suppliers or contractors or against categories thereof;
- f. The procuring entity, when first soliciting the participation of suppliers or contractors in the procurement proceedings, shall declare whether the participation of

suppliers or contractors in the procurement proceedings is limited pursuant to this article and on which ground. Any such declaration may not later be altered;

- g. A procuring entity that decides to limit the participation of suppliers or contractors in procurement proceedings pursuant to this article shall include in the record of the procurement proceedings a statement of the reasons and circumstances on which it relied;
- h. The procuring entity shall make available to any person, upon request its reasons for limiting the participation of suppliers or contractors in the procurement proceedings pursuant to this article.

SECTION 6

Section 21 of Ebonyi State Public Procurement and Related Matters Law, No. 016 of 2020 is amended by expunging Section 2 (a) i, ii, iii, v, b, c, d, e and substituting same with Section 2 (a) i, ii, iii, v, b, c, d, e and f as follows:

*Amendment of
Section 21*

- 2a (i) Have the necessary professional, technical and environmental qualifications;

- ii. professional and technical competence;
 - iii financial resources, equipment and other physical, managerial capability, reliability, experience;
 - v. personnel to perform the procurement contract;
- b That they meet ethical and other standards applicable in this State;
 - c That they have the legal capacity to enter into the procurement contract;
 - d That they are not insolvent, in receivership, bankrupt or being wound up, their affairs are not being administered by a court or judicial officers, their business activities have not been suspended and they are not the subject of legal proceedings for any of the foregoing;
 - e That they have fulfilled their obligations to pay taxes and social security contributions in this State;
 - f That they have not, and their directors or officers have not, been convicted of any criminal offence related to their professional conduct of the making of false statements or misrepresentations as to their qualifications to enter into a procurement contract within a period of three years

preceding the commencement of the procurement proceedings or have not been otherwise disqualified pursuant to administrative suspension or debarment proceedings.

SECTION 7

Section 61 of Ebonyi State Public Procurement and Related Matters Law, No. 016 of 2020 is amended to read:

*Amendment of
Section 61*

1.
 - i. A person become a bidder when he/she is issued the bidding documents.
 - ii. Upon the collection of the bidding documents and at any stage of the bidding processes or proceedings, the bidder may raise any objection in the bidding process.
2. A Bidder may seek administrative review for any omission or breach by a procuring or disposing entity under the provisions of this Law, or any regulations or guidelines made under this Law or the provisions of bidding documents.
3. A complaint by a Bidder against a procuring or disposing entity shall first be submitted in writing to the Account Officer

of that entity and submit the same Complaint through eProcurement system (for electronic filing purpose) in the Economic Operator (Contractors) Dashboard, using the inbuilt Complaint tool which is available for each tender created:

- a. within fifteen working days from the date of occurrence of the alleged breach at any stage of the bidding or disposing process; or
 - b. within ten working days from the notification of award.
4. On reviewing a complaint, the Accounting Officer shall make a decision in writing within 15 days indicating the corrective measures to be taken, if any including the suspension of the proceedings where he deems it necessary and giving reasons for his decision.
5. If the Bidder is not satisfied with the decision of the Accounting Officer, the Bidder:
 - a. may make a complaint to the Bureau within 10 working days from the date of communication of the decision of the Accounting Officer for possible consideration.

- b. shall pay into the account provided by the Bureau a refundable deposit as may be prescribed in the regulations, which deposit shall not be more than five per cent of the cost or value of the contract; and
 - c. shall forfeit the deposit paid under subsection 5(b) of this section if the Bureau determines that the complaint is grossly frivolous or vexatious or made solely to delay the procurement proceedings or performance of a contract; or shall have the deposit refunded after:
 - i. the Bureau gives its decision to the complaint having determined that the complaint discloses a cause of action, or
 - ii. the Bureau fails to give a decision to the complaint at the expiration of the time stipulated for its review decision under subsection 6 of this section.
6. The Bureau shall make its decision in writing within 21 working days after receiving the complaint, stating the reasons for its decision and remedies granted, if any.

7. Upon receipt of a complaint, the Bureau 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 Bureau 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,
 - iv. revise an improper decision by the procuring or disposing entity or substitute its own decision for such a decision; and
 - v. where it deems appropriate, order the payment of costs as between parties to the review as it may determine, in accordance with the scale prescribed in the regulations.

- 8 i. *On reviewing a complaint, the accounting Officer shall make a decision in writing within Twenty-One (21) working days from the date of receipt of the compliant, addressed to the complainant and all others affected, indicating the corrective measures to be taken if any, including the suspension of the proceedings where he deems it necessary, and giving reason for his decision.*
- ii. *The right of a complainant (or any other bidder affected by the decision of the accounting Officer) to further complain to the Authority should the accounting Officer fail to decide his complaint or communicate the decision taken to him within the time given, or if he is dissatisfied by any decision of the accounting Officer, or if the Authority fails to decide his complaint within stipulated time or if he is dissatisfied by the Authority's decision, to approach the Ebonyi State High Court, is guaranteed under this Law.*
- iii. If the Bureau fails to give its review decision within the time stated under section 61(6), the bidder may also appeal to the State High Court.

9. The provisions of subsection 8 of this section is made without prejudice to any other provisions in this Law and/or in the procurement contract, for Arbitration as a primary source of dispute resolution.
10. Not later than six (6) Months after the commencement of this Law but without prejudice to any existing Laws or regulations, the Chief Judge shall issue Practice Directions for the accelerated hearing in the High Court of matters arising from Bidders' complains and/or other disputes connected with public procurements, such that suits/proceedings to the State High Court for judicial review, shall be dispensed with not later than 45 days after filing or in the case of a matter/dispute requiring oral evidence between/amongst parties, such that the matter is dispensed with not later than 6 months after institution of the action.

SECTION 8

The Purpose of this Law is to amend Ebonyi State Public Procurement Law, No. 016 of 2020 and Other Connected Matters.

Object and Purpose

APPENDIX

FORM A

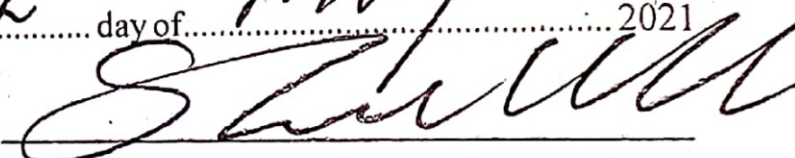
This printed impression has been carefully compared by me with the Bill which has been passed into Law by the Ebonyi State House of Assembly and found by me to be a true and correctly printed copy of the said Bill.


ANASI PATRICIA O. (MRS)
CLERK OF THE HOUSE OF ASSEMBLY,
EBONYI STATE OF NIGERIA.

Dated this 27th day of May 2021

FORM B

Assented to by me this 27th day of May 2021


ENGR. CHIEF DAVID NWEZE UMAHI
(FNSE, FNATE)
GOVERNOR,
EBONYI STATE OF NIGERIA

FORM C

I withhold my assent.

GOVERNOR
EBONYI STATE OF NIGERIA

Dated this day of 2021

FORM D

This Bill to which the Governor has by Letter Reference No.

Dated this day of 2021

Signified the withholding of his assent has again been passed by the House of Assembly
of Ebonyi State of Nigeria by a two third majority this day of
..... 2021.

CLERK OF THE EBONYI STATE HOUSE OF ASSEMBLY

Dated at Abakaliki this day of 2021

OR

Passed by the House of Assembly of Ebonyi State of Nigeria by a two third
majority this day of 2021

This printed impression has been carefully compared by me with the Bill which has been
passed into Law by the House of Assembly of Ebonyi State of Nigeria and found by me to
be a true and correctly printed copy of the said Bill.

CLERK OF THE EBONYI STATE HOUSE OF ASSEMBLY

Dated this day of 2021.