ENERGY & PROJECTS ARTICLE

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Towards The Ease Of Doing Business In Nigeria's Petroleum Industry: A Review of the Guidelines for NCDMB Approvals Of Nigerian Oil & Gas Industry Contracting Processes

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Introduction

In December 2024, the Nigerian Content Development and Monitoring Board ("NCDMB" or the "Board") issued Guidelines for approving Contracting Processes in the Nigerian oil and gas industry. These Guidelines update the 2018 Project Certification and Authorization Directorate (PCAD) Guidelines and operationalise the Presidential Directives on the Reduction of Petroleum Sector Contracting Costs and Timelines, issued in February 2024 ("the Directive"). The Directives designated NCDMB as a key regulatory stakeholder in the contract approval simplification process and mandated the Board to issue implementation guidelines for oil & gas contract approval stages under its supervision.

PCAD Guidelines: Challenges and Shortcomings

The 2018 PCAD Guidelines adopted a segmented approach for approving the tendering process, from formulating contract award strategies to advertisement, prequalification assessment, submission of technical and commercial bids, and final award. Specifically, in the Open Tendering Process, Operators were required to obtain NCDMB's approval for nine distinct stages, namely: Contract Strategy, Nigerian Content (NC) Plan, Advertisement, Technical Invitation to Tender (TITT), Technical Evaluation Criteria (TEC), Technical Evaluation, Commercial Invitation to Tender (CITT), Commercial Evaluation Template (CET), Commercial Evaluation, and Nigerian Content Compliance Commitment (NCCC). Consequently, the approval timelines were unpredictable, posing a significant challenge to operators.

Presidential Directives: Initiatives and Recommendation

To address the challenges posed by the PCAD Guidelines, the Directive recommended adopting a simplified contract approval process with a single level of approval by both NUIMS and NCDMB at various contracting stages; including prequalification, technical, commercial, and final approval. As a direct result, the number of NCDMB's touchpoints in the contracting process was reduced for Open Tendering, Selective Tendering, and Sole Sourcing; and approval timelines were revised to 6 months to streamline the contracting process.

Procedure for Contract Approval under the 2024 NCDMB Guidelines

Under the new Guidelines, the approval stages for NCDMB have been specified and reduced for all tendering processes, with 5, 6, and 4 approval stages for Open Tendering, Selective Tendering, and Sole Source Tendering, respectively. Below, we outline the various approval stages and their applicability to each tendering process.

- **Contract Strategy, Nigerian Content (NC) Plan, and Advertisement stages**

Under the new Guidelines, Open Tendering processes, now consolidate NCDMB approvals for the Nigerian Content (NC) Plan, Advertisement, and Contract Strategy into a single approval, with the Contract Strategy and Advertisement requirements incorporated into the NC Plan Template. Upon approval of the NC Plan, Operators will receive a six-month Certificate of Authorisation (CoA). In contrast, Single Source and Selective Tender processes require separate approval of the Contracting Strategy prior to NC Plan submission, highlighting a distinction in the approval process.

- **Technical and Commercial Bid submission stages**

The Guidelines also introduce a Double Envelope (Technical and Commercial) submission process for Open and Selective Tendering, where bidders submit separate technical and commercial tenders. Following approval of the NC Plan, Operators must ensure that bidders obtain relevant certifications for their technical (TITT & TEC) and commercial (CITT & CET) submissions. In contrast, Sole Source Tendering requires Operators to submit only the completed Commercial Evaluation Template (CET) and Commercial Invitation to Tender (CITT) with their NC Plan, given the absence of competing bids.

- **Technical Evaluation stage**

After evaluating the technical components of bidders' submissions and conducting a Facility Inspection, the Board issues a Technical Evaluation Report to the Operator. The Report assesses compliance with the NOGICD Act, technical evaluation criteria, and NC requirements outlined in the Invitation to Tender. If an Operator requests the Board to permit non-compliant bidders to provide additional clarification, the Board may grant this request and issue a Revised Technical Evaluation Report. The Technical Evaluation Report is valid for 6 months; upon expiration, submissions undergo a review, and the Board issues a revised Report to the Operator. Notably, this phase is not applicable to Sole Source Tendering processes.

- **Commercial Evaluation stage**

A key feature of all tendering processes: - Open, Selective, and Single Source - is the commercial evaluation conducted by the Board. For Open and Selective Tendering, this evaluation assesses technically qualified bidders, while for Sole Sourcing, Operators must provide Contracting Strategy approval, CITT certification, and a commercial reporting summary sheet to be eligible. The Board then evaluates the commercial submissions (CET) for compliance with the NOGICD Act, schedule targets, and Nigerian Content requirements, and issues a Commercial Evaluation Report to the Operator.

- **Recommendation to Award stage**

The final NCDMB touchpoint in the three contracting processes is the Recommendation to Award stage, where the successful bidder or main contractor of the Operator must submit a completed Nigerian Content Compliance Commitment (NCCC) Template. The Board reviews the submission for compliance with the NOGICD Act and issues a Nigerian Content Compliance Commitment (NCCC) certificate, outlining the agreed Nigerian content targets between the Operator and its contractor, along with other relevant details.

A noteworthy development in the Guidelines is the introduction of specific timelines for each stage of the contracting process, aligning with the Presidential Directives' objectives on Reduction of Petroleum Sector Contracting Costs & Timelines. A graphical representation of the revised touchpoints for each contracting process is provided below.

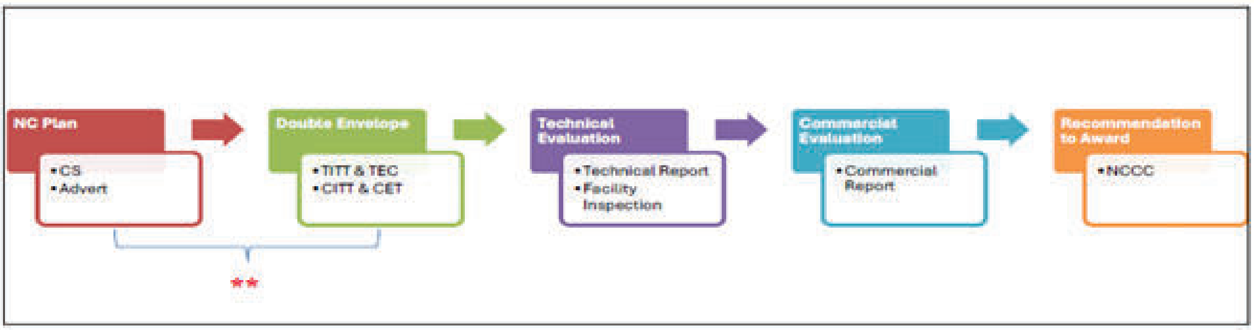

Figure 1 - Open Tendering Process

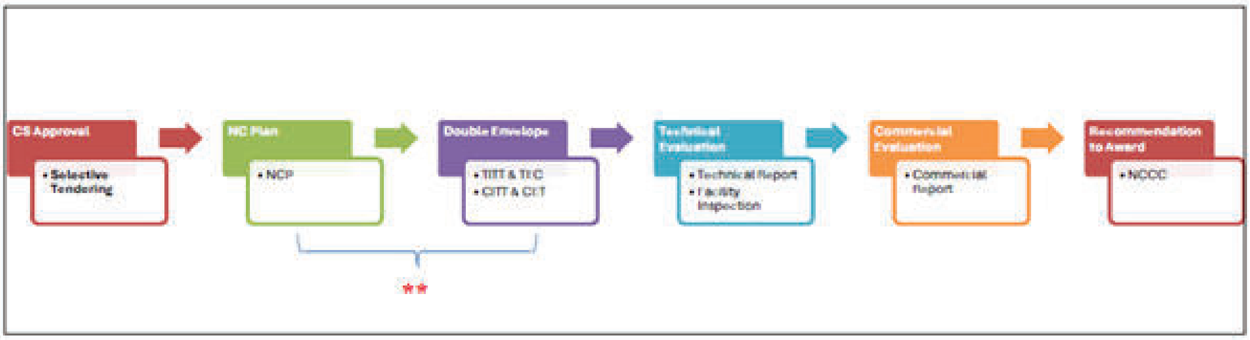

Figure 2 - Selective Tendering Process

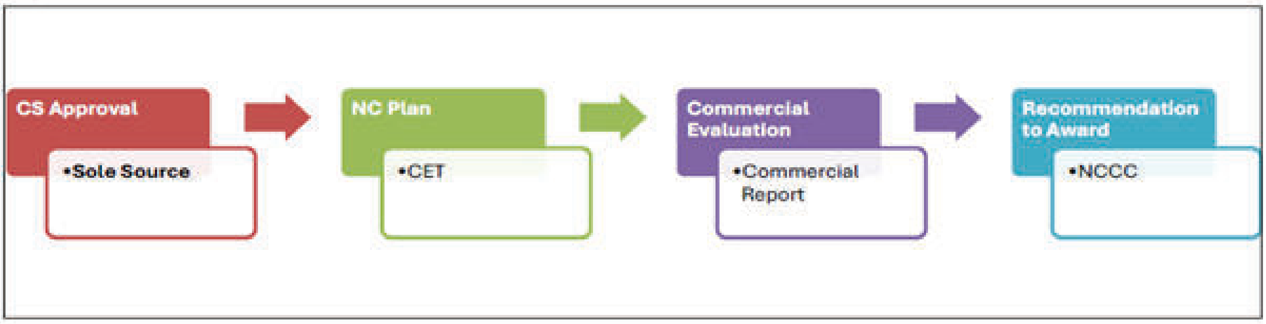

Figure 3 - Single Sourcing Process

Conclusion

The Guidelines demonstrate the government's efforts to enhance ease of doing business in Nigeria's oil and gas sector by streamlining regulatory processes. By reducing bureaucratic hurdles and capping the contracting cycle at six months, the reforms eliminate long-standing obstacles that previously deterred investment. This strategic initiative is expected to boost Nigeria's competitiveness and attractiveness as a global petroleum investment destination.

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