

**EKITI STATE DEVELOPMENT AND
INVESTMENT PROMOTION
AGENCY (EKDIPA) LAW, 2019.**

NO. 8 OF 2019

EKITI STATE OF NIGERIA

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AGENCY LAW, (EKDIPA), 2019.**

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**EKITI STATE DEVELOPMENT AND INVESTMENT PROMOTION
AGENCY LAW, (EKDIPA), 2019.**

NO. 8 OF 2019.

**A LAW TO ESTABLISH THE EKITI STATE DEVELOPMENT AND
INVESTMENT PROMOTION AGENCY AND TO PROVIDE A
REGULATORY FRAMEWORK AND CONDUCTIVE ENVIRONMENT
FOR INVESTMENT DEVELOPMENT, PROMOTION AND
FACILITATION IN THE STATE AND OTHERS MATTERS
CONNECTED THERETO.**

EKITI STATE OF NIGERIA.

PART I

Preliminary.

Citation.

1. This may be cited as the Ekiti State Development and Investment Promotion Agency Law, (EKDIPA), 2019

Interpretation.

2. In this Law, unless the context otherwise requires:
“**Agency**” or “**EKDIPA**” means the Ekiti State Development and Investment Promotion Agency established under Section 3 of this Law;
“**Board**” means the EKDIPA Board of Trustees;
“**Chairman**” means the Chairman of the EKDIPA Board;
“**Committee**” means the Committee established by the Board;
“**Director General**” means the Chief Executive of EKDIPA;
“**Federal Government**” means the Federal Government of Nigeria;
“**Government**” means the Government of Ekiti State;
“**Governor**” means the Governor of Ekiti State;
“**Member**” shall include the Vice Chairman; and
“**Secretary/Legal Adviser**” means the Company Secretary;
“**State**” means Ekiti state of Nigeria.

PART II

Establishment of EKDIPA.

3. (1) There is hereby established for the State a body to be known as the Ekiti State Investment and Development Promotion Agency (in this Law referred to as “EKDIPA”).
- (2) EKDIPA shall be a body corporate with perpetual succession and a common seal and with power to sue and be sued its corporate name and to acquire property whether movable or immovable for the purpose of its functions under this Law.
- (3) EKDIPA shall have a head office which shall be based in Ekiti State.
- (4) EKDIPA may set up such number of offices in other States of the Federal Republic of Nigeria as may be required, with such number of staff needed to run the operations of the office.
- (5) Such offices shall not operate without the necessary approvals obtained from the Board of EKDIPA.

Objective of EKDIPA.

4. The purpose of EKDIPA is to initiate, promote, felicitate, coordinate and create a conducive environment for investments and development in the State through Greenfield, Brownfield, Public private Partnerships, privatisation, commercialisation of State owned assets and concessions, enterprise development schemes and employability programmes; provided that nothing in this Law shall be interpreted to affect any existing obligations of Government or any community without adequate compensation to the affected valid title in any land or property in the State.

Functions of EKDIPA.

5. The functions of EKDIPA shall be to:
 - (1) Manage all enterprise development and job creation initiatives that maybe undertaken by the Government.
 - (2) Advise and assist the government in creating an attractive and competitive climate for business that will lead to robust economic activities in the State;

- (3) Monitor the implementation, execution and delivery of projects as contained in agreements between the Government and respective investors;
- (4) Enter into and participate as an agent of the Government in any such business, project, transaction negotiations or financial arrangement which the Government desires to enter into or participate in its direct capacity as a State and not through any other statutory corporation;
- (5) Act as trustee, hold and dispose of any such property in trust for and on behalf of the Government; however subject to the provisions of the Land Use Act in relation to Land Matters;
- (6) Advise and conduct risk or benefit assessment that will assist the Government in decision making and the implementation of all projects and programmes pursuant to the State Investment Promotion Strategy;
- (7) EKDIPA may grant a margin of preference in the evaluation of Expression of Interest when comparing from domestic bidders with those from foreign bidders or when comparing Expression of Interest from domestic suppliers offering services locally with those from foreign suppliers;
- (8) Assist the State in building capacity for investment project identification, evaluation, planning, execution and management;
- (9) Source on behalf of the Government, finance for investment from multilateral and bilateral development partners as well as private investors, both domestic and foreign through Public Private Partnerships and other financial arrangements, and where appropriate, act as lead negotiator in transactions with private investors that ensure the needs of the State and those of its citizens are well represented;
- (10) Advise and assist in the establishment of a framework for monitoring and evaluating the progress of the State's strategic economic investment programmes and projects for effective implementation;
- (11) Foster sustainable economic growth and create job opportunity for the residents of the State.
- (12) Establish a framework for identifying and proactively engaging the Federal Government and its Agencies in the investment promotion drive of the State;
- (13) Publish and periodically revise data and information on the investment status of the State in order to assist prospective investors to evaluate the State's potential as a lucrative investment destination;

- (14) Convey, assign, surrender and yield up, accept the surrender of, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with any movable or immovable property vested in EKDIPA;
- (15) Articulate, clear growth and development strategies for providing needed support and appropriate incentives to grow the local private sector and enlarge the economic base of the State in line with the priorities of the State;
- (16) Based on the State's resources focused on the approved EKDIPA strategy, identify and document available land for agricultural, housing, commercial, industrial and other uses so that it can be speedily made available to qualify investors in a manner that protects the rights of all stakeholders (land owners, occupiers, communities) and provides opportunities for optimal land use for investment and job creation;
- (17) Advise and assist the government in developing and maintaining a comprehensive and reliable database on investment opportunities for effective planning especially in areas where the State has demonstrable comparative and competitive advantages;
- (18) Develop a database of reputable prospective and potential investors both in Nigeria and abroad with a view to reaching out to them when opportunities arise;
- (19) Plan well-researched investment promotion activities including tours and road shows aimed at promoting specific investment projects in areas where the State has demonstrable comparative and competitive advantages;
- (20) Act as the State's lead negotiator for all Public Private Partnership models including Build Operate-Transfer, Concession, Privatization Transactions etc. even when they are identified and/or project managed by other Ministries, Departments and Agencies;
- (21) Act as a one-stop resource and coordination centre for all investment related activities;
- (22) Take over existing State projects, structures and outfits which fall within mandate; and even where they are identified and/or project managed by other Ministries, Departments and Agencies;
- (23) The Agency shall be in charge of all Ease of Doing Business Initiative in the State;

- (24) Perform such other functions as the Governor may from time to time direct or as may be deemed necessary to achieve its primary purpose under this Law.

Powers of EKDIPA.

6. EKDIPA shall have powers to:

- (1) Conclude arrangements with any person for the effective implementation of any programme or project and to enter into such other contracts as it may deem necessary to facilitate its functions under this Law;
- (2) Procure, within its budgetary limit, any property or service it may require for the effective discharge of its functions under this Law and to dispose of any such property or terminate any such service;
- (3) Request the Head of any Ministry, Department or agency of the Government to furnish it with any document, explanation or other information it may require for the due execution of its functions under this Law;
- (4) Accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organisation making the gift;
- (5) Not accept any gift if the conditions attached by the person or organisation offering the gift are inconsistent with the objectives and functions of EKDIPA under this Law;
- (6) Regulate its own proceedings;
- (7) Insure its property against all forms of risk; and
- (8) Do such other things as are reasonably incidental supplemental or conducive to its functions under this Law.

Establishment of the Board.

7. (1) EKDIPA shall have a Board and the Board may consist of the following members:

- (i) A chairman who shall be the governor of the State;
- (ii) A Vice chairman shall be appointed by the Governor from the private sector who shall be the Director General of EKDIPA and shall be a reputable person with sound knowledge and experience in business and conversant with the Nigeria investment environment;

- (iii) Two Commissioners of the State with portfolios incidental to development and investment in the State;
- (iv) Six (6) persons, which at least two of whom shall be women, to be chosen from various professional backgrounds.

Tenure and Remuneration of the Board.

8. (1) A member of the Board shall hold office for a term of five (5) years and may be reappointed for a further term of five (5) years. Save for the Chairman/Governor whose tenure ends at the expiration of his gubernatorial term.
- (2) Members of the Board shall be paid such remunerations and allowances as may be approved by the Chairman in accordance with extant guidelines in this regard.

Functions of the Board.

9. The functions of the Board shall be to:
- (1) Promote policies and transparent procedures that will enable the government to work with potential investors and business partners to develop the natural resources base and assets of the State;
 - (2) Develop appropriate institutional and regulatory framework for investment promotion and facilitation in the State;
 - (3) Articulate clear growth strategies for providing needed support and appropriate incentives to grow the local private sector and enlarge the economic base of the State in line with the priorities of the State;
 - (4) Develop and implement a comprehensive strategy and action plan to attract and facilitate new investment in the State; and
 - (5) To do all things incidental to its functions as stipulated under this Law and necessary to give effect to the entire provisions of this Law.

Management Committee.

- 10.(1) In addition to such other committee that may be established by the Board for the purpose of performing its function under this Law, there is hereby established a body to be known as the “Management Committee”;
- (2) The Committee shall comprise the Heads of Departments in EKDIPA and such number of persons as may be determined by the Board.

- (3) The Committee shall be charged with the responsibility of making recommendations to the Board in respect of appointments, promotions and exercising disciplinary control over staff of EKDIPA (excluding the Senior Staff that may be seconded to EKDIPA)

Annual Estimate and Account.

11. The Board shall cause to be prepared, not later than 30th October in each year, an estimate of the expenditure and income of EKDIPA during the next succeeding year and when prepared, they shall be submitted to the Accountant-General of the State.

Annual Report.

12. The Board shall not later than six (6) months immediately following the end of a years –
 - (1) Submit to the Governor a report on the activities and the administration of EKDIPA during the immediately preceding year and shall include in the report the audited accounts of EKDIPA and the auditor's report on the accounts;
 - (2) Present and publish the audited annuals accounts, auditor's report on the account and reports on the activities of EKDIPA to the Annual Meeting comprising all stakeholders, and on the State Government website; and
 - (3) Prepare and submit to the Executive Council **and the House of Assembly** not later than the 30th June in each year, a report in such form as may be directed on the activities of the Board during the immediate preceding years and shall include in such report a copy of the audited accounts of the Board for that year and the Auditor-General's report thereon.

Cessation of Office.

13. The office of a member of the Board shall become vacant where:
 - (1) The term of appointment has expired as provided by this Law;
 - (2) At the expiration of one month written notice of resignation has been given to the Governor.

- (3) The Governor deems it just and equitable or in the overall interest of the Agency to terminate the appointment of any member in order to preserve the sanctity and integrity of the Board and/or its membership;
- (4) The member ceases to hold any office or qualification by virtue of which he was appointed to serve on the Board.

Powers of the Chairman/Governor.

- 14.(1) The Chairman/Governor may by an executive fiat provide that there shall be vested in EKDIPA, as from the appointed day or such other date as he may determined, any property, rights and liabilities which in agreement or arrangement to which such statutory corporation has been a party only as an agent of the Government.
- (2) Save as provided in subsection 1, nothing in this Law shall affect the holding or disposal by, or vesting in, any person or authority of any property by virtue of any other law, or of any arrangement made in that behalf for the time being by the Government.
- (3) The Chairman may give to EKDIPA directives of a general nature as are necessary to make EKDIPA comply with the general policies of Government.

PART III

Functions of the Vice Chairman.

- 15.(1) The Vice Chairman shall be the Director General of EKDIPA and shall be responsible for the running and implementation of the policies of EKDIPA.
- (2) The Vice Chairman shall perform the role and functions of the Chairman as may be delegated or assigned to him by the chairman from time to time;
- (3) The Vice Chairman shall pursuant to the objectives of EKDIPA also carry out the following functions:
 - (i) Prepare a time bound rolling strategy, an annual action plan and budget, based on the functions of EKDIPA for review and approval by the Board;

- (ii) Monitor the progress of the strategy and prepare quarterly reports for the Board's review;
- (iii) Provide information and technical input to the Board for the purpose of defining appropriate policy directions and high level reform priorities;
- (iv) Liaises with all Ministries, Departments and Agencies of government for the purpose of continually collecting, compiling and collating information with a view to developing an economic database and investment information repository for the state;
- (v) Prepare policy and strategy papers on key investment issues as may be directed by the Board;
- (vi) Work with relevant government agencies to periodically review broad sector policies to ensure consistency with economic management and investment promotion initiatives in the State;
- (vii) Provide support in the development of feasibility studies on investment projects in small and medium enterprise supported sectors;
- (viii) Carry out activities aimed at building the institutional capacities of Ministries, Departments and Agencies of Government and other relevant stakeholders in the area of investment promotion;
- (ix) Coordinate the implementation of the various recommendations of the State Executive Council on investment issues;
- (x) Coordinate all activities of EKDIPA including the execution of its Work Plan and Annual Budget and ensure the maintenance of accurate accounting records;
- (xi) Arrange for the payment of allowances of members of the Board and other related matters;
- (xii) Undertake any other tasks relating to investment promotion as may be directed by the Board or the Chairman; and
- (xiii) Generally perform all other duties affecting EKDIPA as may be assigned to him by the Chairman.

Secretary/Legal Adviser.

16.A Secretary/legal Adviser who shall be a Legal officer from the Ministry of Justice and shall be appointed by the Governor on the recommendation of the Attorney General and Commissioner for Justice.

Functions of the Secretary/Legal Adviser.

17.The Secretary/Legal Adviser shall in accordance with the provisions of this Law, work closely with the Director General/Vice Chairman and be responsible for the following matters:

- (1) Shall assist the Vice Chairman in the day to day running of EKDIPA and the administrative affairs of the Board;
- (2) Arrange for meetings of the Board and its constituted Committees;
- (3) Prepare the agenda and minutes of such meetings;
- (4) Advise the Board on all legal matters and ensure compliance with the provisions of this Law and other relevant Laws and policies of the government;
- (5) Convey decisions of the Board to all relevant parties;
- (6) He shall keep the seal and affix the Seal on all necessary documents;
- (7) He shall maintain the records of EKDIPA; and
- (8) The secretary shall be responsible to the Board and the Vice Chairman concerning his functions in the administration of EKDIPA.

Other staff of EKDIPA.

- 18.**(1) EKDIPA may directly employ such number of Staff as it may deem necessary for the efficient discharge of its functions pursuant to this Law or may request for the posting of employees or request for the secondment or transfer from the main stream public Service where such employees meet EKDIPA's professional and technical standards and capabilities.
- (2) EKDIPA shall have power to make, with the approval of the Board staff's regulations governing the conditions of service, including the salaries of its employees and their tenure of office after due consultation with the State Civil Service Commission.

Terminal Benefit of the Staff.

19.EKDIPA shall determine terminal benefits of its staff and may determine the application of State contributory pension law in its conditions of service.

Discipline.

20. Subject to the provision of this Law, the Board shall have power to appoint and exercise disciplinary control over staff in a judicious manner.

Ministerial Steering Committee.

- 21.(1) EKDIPA shall have an Inter-Ministerial Steering Committee which shall be chaired by the Governor.
- (2) The Inter-Ministerial Steering Committee shall be comprised of the relevant Commissioners of the State.
- (3) The duty of this Inter-Ministerial Steering Committee shall be to ensure the involvement and ownership by each Ministry of the State of anticipated and ongoing projects, as it pertains to the respective Ministry's core functions and responsibilities.
- (4) The Board shall pursuant to the provisions of this Law, appoint such other committee for the performance and implementation of the functions of EKDIPA as it deems fit from time to time.

PART IV

Funding.

- 22.(1) EKDIPA shall establish and maintain a fund that shall be applied towards the discharge of its functions under this Law.
- (2) There shall be paid and credited into the fund established pursuant to subsection (1) of this Section:
- a) All subventions and budgetary allocations from the State Government;
 - b) Gifts, loans, endowments, grants or aid from any Agency, institution, bilateral and multilateral organisations or any government and entitlements from privatization proceeds;
 - c) Such monies as may be payable to EKDIPA for services rendered in the course of any matter incidental to the discharge of its functions under this Law; and
 - d) Monies raised in any other manner as permitted under this Law.

Audit of Account.

- 23.(1) EKDIPA shall keep accounts of its income and expenditure for each financial year and shall cause the accounts to be properly audited annually.

- (2) The Board shall appoint for EKDIPA a reputable external auditor from a list approved auditors provided by the auditor-General of the State who shall audit the accounts of EKDIPA at the end of each financial year.
- (3) The Board is hereby empowered to determine the financial year of EKDIPA in accordance with the directives of the Accountant General of the State.
- (4) EKDIPA shall forward a report of the external audit to the office of the Auditor-General of the State not later than two weeks after the submission of the report by the External Auditor.

Pre-action Notice and Immunity.

- 24.(1) Subject to the provisions of this Law, no suit shall be commenced against EKDIPA before the expiration of thirty (30) days after written notice of intention to commence such suit has been served upon EKDIPA by the intending claimant or his agent, and the notice shall clearly state:
 - a) The cause of action;
 - b) The particulars of claim;
 - c) The name and place of abode of the intending claimant; and
 - d) The relief sought.
- (2) No member or staff of EKDIPA shall be sued in his personal capacity for any act done or omitted to be done in the lawful performance of his duties under this Law.
- (3) Notwithstanding the provisions of subsection (2) of this Section, every member of the Board, agent, auditor or employee for the time being of EKDIPA shall be indemnified out of the assets of EKDIPA against any liability incurred by him in defending any proceedings whether civil or criminal, if any such proceeding is brought against him in his capacity as such member, agent, auditor or employee as aforesaid.

Restriction on execution against properties of the Agency.

- 25.(1) No execution or attachment or process in the nature thereof shall be levied or issued against any property occupied or held by or vested in EKDIPA without the consent of the state Attorney-General first had and obtained.

- (2) any sum of money which may be awarded against EKDIPA by the judgment of any court of competent jurisdiction shall, subject to any directions given by the court except where notice of appeal has been given by EKDIPA in respect of the said judgement, be paid by EKDIPA from its funds or from such other funds as the government may provide for the intended purpose.
- (3) Any immovable property occupied or held by or vested in EKDIPA shall not be liable to assessed or valued as hereditaments or tenements or otherwise for rating purposes under any Law.

PART V

Service to be Pensionable.

- 26.(1) Service in EKDIPA shall be the approved service for the purpose of the Pensions Law and accordingly, officers and other persons employed by the Board shall be entitled to pensions, gratuities and other retirement benefits as are prescribed under the Law subject to the approval of the Board.
- (2) For the purpose of the application of the provisions of the Pensions Law, any power exercisable thereunder by a Commissioner or other authority of the Government of the State other than the power to make regulations, us hereby vested in and shall be exercisable by the Board to the exclusion of any other person or authority.

Resignation.

27. Any member of the Board other than an ex-officio member may by a one month notice to the Board resign his appointment.

Service of Documents.

28. A notice, summons or other document required or authorized to be served on the Agency under the provisions of this Law or any enactment or Law may be served by delivering it to the Vice Chairman or Secretary/Legal Adviser or by sending it by registered post, addressed to the Vice Chairman or Secretary/Legal Adviser at the office of the Agency.

Voting.

- 29.(1) Every question which comes before the Board for decision shall be decided by a majority of votes of the members present and voting.

- (2) The quorum of the board shall be six members, one of which shall be the Chairman or Vice Chairman and the quorum of any Committee of the Board shall be determined by the Board.
- (3) In the event of a stalemate on any vote relating to any matter, the Chairman shall have a casting vote.
- (4) Where any Board member has any direct or indirect interest on any matter before the Board, the member shall declare his interest to the Board following which the member shall be excused from participating in the discussions or voting on the particular matter under consideration.

Co-opting.

30. Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him as a member for such period as it thinks fit, but a person who is member by virtue of this subparagraph shall not be entitled to vote at a meeting of the Board and shall not be reckoned, for the purpose of ascertaining the quorum.

Delegation of Functions.

- 31.**(1) The Board may appoint one or more Committees to carry on its behalf such its functions as the Board may determine from time to time.
- (2) A Committee appointed under this paragraph shall consist of such number of persons (not necessarily all members of the board) as may be determined by the Board.
- (3) A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

Meetings.

- 32.**(1) The Board shall meet at least once every quarter to review the progress of the various programmes and projects and to consider any special issue as may be directed by the Chairman.
- (2) Where the Chairman is unable to attend any Board meeting, the Vice Chairman shall preside over the meeting.
- (3) Where the Commissioner is unable to attend, he shall be represented by the Permanent Secretary or a Director in the Ministry.

Common Seal.

- 33.**(1) EKDIPA shall provide for itself a common seal.
- (2) The fixing of the Seal of the Agency/Board shall be authenticated by the signature of the Chairman and the Secretary/Legal Adviser.
- (3) Any contract or instrument, which if made or executed by persons not being a body corporate would not be required to be sealed, may be made or executed on behalf of the Board by any person generally or specially authorized to do so by the Board.
- (4) Any document purporting to be a document duly executed under the seal of EKDIPA shall be received in evidence and shall be deemed to be executed unless the contrary is proved.

Confidentiality.

34.A member of the Board, the Vice Chairman, Officer or other employees of EKDIPA shall:

- (i) Not for his personal gain, make use of any information which has come to his knowledge in the exercise of his powers or is obtained by him in the ordinary course of his duty under this Law.
- (ii) Treat as confidential any information which has come to his knowledge in the exercise of his powers or is obtained by him in the performance of his functions under this Law;
- (iii) Not disclose any information referred to under paragraph (ii) of this subsection except when required to do so by an Arbitration Panel or the Court or in such other circumstances as may be prescribed by the Board from time to time.