

ANNEX 13

Public Procurement

and

Disposal of Public Assets

Guideline

Guideline issued by the Public Procurement and Disposal of Public Assets Authority under Section 97 of the Public Procurement and Disposal of Public Assets Act, 2003 and Section 94 of the Local Governments Act and Regulation 12 of the Local Governments (PPDA) Regulations, 2006

Guideline Details:

Guideline Reference: 2/2017

Guideline Subject: Guideline on reservation schemes to promote local content in public procurement

Guideline Commencement Date: 10th March 2017

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Guidelines are distributed to all Accounting Officers who are responsible for distributing copies to the Contracts Committee and members of the Procurement and Disposal Unit of the Procuring and Disposing Entity

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**GUIDELINE SUBJECT: GUIDELINE ON RESERVATION SCHEMES
TO ENHANCE LOCAL CONTENT IN
PUBLIC PROCUREMENT**

In accordance with Sections 50 (2) of the PPDA Act, 2003 and Regulation 53 of the Local Governments (PPDA) Regulations, 2006; and to implement the National Development Plan II (NDP II) 2015/16 – 2019/2020 and the Buy Uganda Build Uganda Policy, 2014 that provide for the need to support locally manufactured products; knowledge transfer; and human capital development, the Authority issues following guideline on reservation schemes to enhance local content in public procurement.

Objective of the Guideline: To provide for mechanisms of increasing the input of local labour, goods and services in the procurement of public sector projects, goods and services within the country.

Definitions:

In this Guideline, unless the context otherwise requires –

“Local provider” means a provider registered in Uganda whose majority ownership is held by Ugandan citizens;

“Provider” means a natural person, a company or a partnership. The provider may also take the form of a Joint Venture, Partnership, Association or Consortium.

“Reservations” means exclusive preference to procure goods, works and services set aside by threshold or sector;

"Target group" means designated procuring and disposing entities identified to apply and implement the reservation schemes.

1. Exclusive reservation of public contracts by threshold to local providers

1.1. A reservation shall apply to procurements for supplies, works and services by threshold and to benefit local providers.

1.2. The target group for the reservation are all procuring and disposing Entities in Uganda.

1.3. The following thresholds shall be applicable for this reservation:

- i. Procurements for supplies whose estimated cost is UGX 1 Billion and below;

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- ii. Procurements for road works whose estimated cost is UGX 45 Billion and below; and other public works whose estimated cost is UGX 10 billion and below;
 - iii. Procurements for consultancy services whose estimated cost is UGX 1 Billion and below; and
 - iv. Procurements for non-consultancy services whose estimated cost is UGX 200 Million and below.
- 1.4. The Procuring and Disposing Entity shall use the appropriate procurement methods provided under the relevant procurement law and subject the method to this reservation.
- 1.5. Where an Entity is unable procure the supplies, works and services from a local provider, the Procuring and Disposing Entity shall procure from a bidder who is not eligible for this reservation. The Accounting Officer shall submit a report to the Authority within 10 working days from contract execution.
- 2. Reservation of at least 30% of the value of works through subcontracting to local providers**
- 2.1. A reservation of at least 30% of the value of works through subcontracting to local providers shall apply to procurements of works above an estimated cost of UGX 45 Billion where the bidder is not a local provider.
- 2.2. The target group for the reservation are the following:
- i. Ministry of Works and Transport;
 - ii. Ministry of Water and Environment;
 - iii. Ministry of Local Government;
 - iv. Ministry of Health;
 - v. Ministry of Defence;
 - vi. Uganda National Roads Authority; and
 - vii. Kampala Capital City Authority.
- 2.3. Notwithstanding the above, any other Entity procuring works above UGX 10 Billion shall adhere to this reservation.
- 2.4. The subcontracting may take the form of supply of related goods, works or provision of services to local providers.
- 2.5. The bidding documents shall provide for the requirement of subcontracting in the evaluation criteria and shall be part of the contract to be executed by the provider.
- 2.6. The bidder shall indicate the form or scope of subcontracting in the bid.

2.7. The Contract Manager or the Supervising Consultant of the works shall ensure that the contractor implements the subcontracting.

3. Reservation for procurement of uniforms and related clothing materials

3.1. A reservation shall apply to procurements for supply of uniforms and related clothing materials to providers that have manufacturing facilities in Uganda.

3.2. The related clothing materials include bed sheets and curtains.

3.3. The target group for the reservation are the following:

- i. Ministry of Defence;
- ii. Uganda Police Force;
- iii. Uganda Prisons Services;
- iv. Ministry of Health;
- v. National Medical Stores; and
- vi. Uganda Wildlife Authority.

3.4. Notwithstanding above, any Entity procuring uniforms and related clothing materials worth UGX 100 Million and above shall adhere to this reservation.

3.5. To be eligible for this reservation, the provider should:

- i. Have a manufacturing facility in Uganda producing uniforms and related clothing materials;
- ii. Use locally grown cotton from the ginneries;
- iii. Have products certified by the Uganda National Bureau of Standards (UNBS); and
- iv. Be registered on the PPDA Register of Providers.

3.6. The following conditions shall apply to the Entity reserving the procurement of uniforms and related clothing materials:

- i. Use the appropriate procurement method and subject it to this reservation; and
- ii. Subject the testing of the sample of the supplies and deliveries by UNBS to satisfy conformation to the specifications.

3.7. Where the Entity is unable to get responsive bids from an eligible provider under 3.5, the entity may procure the supplies from a bidder who is not eligible for this reservation. The Accounting Officer shall submit a report to the Authority within 10 working days from contract execution.

4. Reservation for procurement of electrical cables and conductors

4.1. A reservation shall apply to procurements for supply of electrical cables, conductors and bundle cables to providers that have manufacturing facilities in Uganda.

4.2. The target group for the reservation is the following:

- ~~i. Ministry of Energy and Mineral Development;~~
- ii. Rural Electrification Agency;
- iii. Uganda Electricity Transmission Company Limited;
- iv. Uganda Electricity Distribution Company Limited; and
- v. Kampala Capital City Authority.

4.3. Notwithstanding above, any Entity procuring electrical cables and conductors worth UGX 100 Million and above shall adhere to this reservation.

4.4. To be eligible for this reservation, the provider should:

- i. Have a manufacturing facility in Uganda;
- ii. Have products certified by the Uganda National Bureau of Standards (UNBS); and
- iii. Be registered on the PPDA Register of Providers.

4.5. The following conditions shall apply to the Entity reserving the procurement of electrical cables and conductors:

- i. Use the appropriate procurement method and subject it to this reservation; and
- ii. Subject the testing of the sample of the supplies and deliveries by UNBS to satisfy conformation to the specifications.

4.6. Where the Entity is unable to get responsive bids from an eligible provider under 4.4 above, the Entity may procure the supplies from a provider who is not eligible for this reservation. The Accounting Officer shall submit a report to the Authority within 10 working days from contract execution.

5. Reservation for procurement of medicines and medical supplies

5.1. A reservation shall apply to procurements for supply of medicines and medical supplies manufactured in Uganda to providers that have production facilities in Uganda.

5.2. The target group for the reservation is the following:

- i. National Medical Stores; and
- ii. Public health facilities procuring medicines and medical supplies.

5.3. To be eligible for this reservation, the provider should:

- i. Have a manufacturing facility in Uganda;
- ii. Have the manufacturing facility and products certified by the National Drug Authority and medicines registered on the National Drug Authority Register; and
- iii. Be registered on the PPDA Register of Providers.

5.4. The competent authority for the manufactured medicines medical supplies is National Drug Authority.

5.5. The Entity reserving the procurement of supply of medicines and medical supplies shall use the appropriate procurement method and subject it to this reservation.

5.6. Where an Entity procuring medicines and medical supplies is unable to procure the supplies from the manufacturers in Uganda, the Procuring and Disposing Entity shall procure the supplies from a bidder who is not eligible under this reservation. The Accounting Officer shall submit a report to the Authority within 10 working days from contract execution.

6. Documents to be submitted in the bid as proof of eligibility to be a local provider

The following documents shall be submitted by a provider in addition to other administrative eligibility requirements:

6.1. For companies:

- i. Certificate of Incorporation;
- ii. Return of Allotment of Shares; and
- iii. Copies of the National Identity Cards or Passports of the majority shareholders.

6.2. For partnerships or other associations (Joint Ventures or Consortiums or Cooperative Societies):

- i. In the case of individuals, copies of the National Identity Cards or Passports; and
- ii. In the case of a company: The requirements as listed in 6.1. above.

6.3. For individual providers, a copy of the National Identity Card or Passport.

7. Market Price

7.1. To ensure value for money, an Entity shall not procure a requirement whose price is more than 15% of the assessed market price.

7.2. The Procuring and Disposing Entity shall ensure that a market assessment is conducted prior to the commencement of the procurement under reservation.

8. Disclosure in the Procurement Plan

The Procuring and Disposing Entities shall disclose in the Procurement Plans the procurements that shall be subjected to this reservation scheme. The Procurement Plans shall be displayed on the Entity's notice board and the Authority's website.

9. Reservation to apply to Procurements funded by Government of Uganda and Development Partners

This Guideline on reservation scheme shall apply to procurements which are funded by Government of Uganda. The reservation shall also apply to procurements funded by development partners except where the conditions of funding limit the application of reservations.

10. Monitoring

The Authority shall monitor the implementation of the reservation schemes by entities on a quarterly basis and undertake an annual assessment based on predetermined indicators.

11. Report by Accounting Officer following non application of the reservation

The report to be submitted by the Accounting Officer under 1.5, 3.7, 4.6 and 5.6 of this Guideline shall indicate the following:

- i. The subject of procurement;
- ii. The contracted provider and the contract price;
- iii. Efforts undertaken to procure from a provider eligible for the reservation; and
- iv. Reasons as to why the reservation could not be applied.

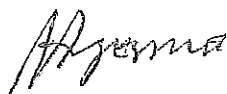
12. Reporting

The Procuring and Disposing Entities shall indicate in their monthly/quarterly reports submitted to the Authority contracts that have been awarded/completed under the reservation scheme.

13. Transitional Provision

This Guideline shall not apply to procurements where bids had been received by the Entity at the commencement date of this Guideline.

Signed:



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Chairman of the Board of Directors



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Executive Director of the Authority

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS AUTHORITY

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