

Presidential Order seeks to enforce local content in procurement and employment



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President Mohammed Buhari recently signed an Executive Order titled *Planning and Execution of Projects, Promotion of Nigerian Content in Contracts and Science, Engineering and Technology*. The Order directs Ministries, Departments and Agencies (MDAs) to promote local content by giving preference to Nigerian companies (defined as companies formed and registered in Nigeria with no less than 51% equity shares owned by Nigerians) in the award of contracts, bids and projects. The Order is effective from 2 February 2018.

Highlights of the Order -

Procurement: Nigerian companies are to be given priority in the award of contracts. Where the requisite expertise is lacking, foreign companies who demonstrate a plan for indigenous capacity development should be considered.

Thresholds have been set in determining whether bids would be available to domestic contractors/suppliers (national competitive bidding) or foreign contractors. The thresholds range from amounts under NGN 5 billion and vary depending on whether the contracts are for works, supply of goods or services. MDAs are also to replace foreign technology with quality local equivalents.

Joint Ventures (JVs): Consultancy services involving joint venture arrangements and relating to law, engineering, ICT, architecture, procurement and quantity surveying, amongst others should be led by Nigerian companies. JVs and public private partnerships with foreign firms should be registered with the National Office for Technology Acquisition and Promotion (NOTAP).

Margin of Preference: An extra margin (7.5% for goods or 15% for services) on prices is allowed for domestic contractors and suppliers when bidding with their foreign counterparts under an international competitive bid.

Accreditation: MDAs are to ensure that practicing professionals are registered with the appropriate local professional bodies before consideration for a contract award or employment.

Language: All contracts, projects including those related to the mapping of Nigerian solid minerals must be in English language.

Capacity Development: MDAs are to encourage Nigerian professionals in diaspora to return and develop the country. The Ministry of Science and Technology is to establish knowledge centres in the six geopolitical zones within the next 2

years. The Ministry of Education is to introduce training on public procurement process in schools.

Expatriate Quota: The Ministry of Interior (MoI) is to rely on the database of professional Nigerians maintained by NOTAP and other relevant MDAs in reviewing Expatriate Quota (EQ) applications. The MoI may create a special immigration classification for Africans to enable knowledge transfer.

Small and Medium Scale

Enterprises (SMEs): MDAs are to engage the services of SMEs for the local production of construction materials.

Tax incentives The Federal Inland Revenue Service (FIRS) and Ministry of Finance are to grant tax incentives to indigenous artisans and SMEs.

Takeaway

The order is aimed at creating more opportunities for Nigerians and local companies. Before now, local content (LC) requirements had been applied only to a few sectors such as telecommunications, banking, oil and gas. The Order now extends LC to sciences, technology and construction sectors as it relates to government contracts.

Specific guidelines will be required to implement the order and clarify performance indices to objectively determine local content in bids. The Order also reinforces existing rules on EQ applications regarding Nigerian understudies failing which a monthly fine of **3 million** or deportation may apply under the Nigeria Immigration Act.