

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT No. 36 OF 2011

**The Citizen Economic Empowerment Act, 2006
(Act No. 9 of 2006)**

**The Citizen Economic Empowerment (Preferential
Procurement) Regulations, 2011**

IN EXERCISE of the powers contained in section *nineteen* of the Citizens Economic Empowerment Act, 2006, the following Regulations are hereby made:

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| 1. These Regulations may be cited as the Citizens Economic Empowerment (Preferential Procurement) Regulations, 2011. | Title |
| 2. In these Regulations, unless the context otherwise requires— | Interpretation |
| “Authority” means the Zambia Public Procurement Authority provided for under section <i>five</i> of the Public Procurement Act, 2008; | Act No. 12 of 2008 |
| “bid” has the meaning assigned to it in the Public Procurement Act, 2008; | Act No. 12 of 2008 |
| “Commission” has the meaning assigned to it in the Act; | |
| “functionality” means the capability of a service or commodity to provide an acceptable level of performance taking into account, among other things, the quality, reliability, viability and durability of the service or commodity and fitness for purpose; and | |
| “State institution” has the meaning assigned to it in the Act. | |
| 3. A State institution shall apply a preferential procurement system in accordance with the Act and these Regulations. | Application of preferential procurement system |
| 4. A State institution may, in evaluating a bid, adjust the bid price in order to facilitate preferential evaluation of a bid as follows: | Preferential treatment |
| (a) for a citizen-influenced company, by four percent; | |
| (b) for a citizen-empowered company, by eight percent; | |
| (c) for a citizen-owned company, by twelve percent; and | |
| (d) for domestically manufactured goods by a citizen-influenced company, citizen-empowered company and citizen-owned company, by fifteen percent. | |

*Copies of this Statutory Instrument can be obtained from the Government Printer,
P.O. Box 30136, 10101 Lusaka, Price K2,000 each*

Reservation schemes

5. (1) The Commission and the Authority shall reserve a public procurement for a citizen-influenced company, citizen-empowered company or citizen-owned company with estimated values as follows:

(a) with respect to goods, public procurement of goods not exceeding three billion kwacha (K3,000,000,000.00); and

(b) with respect to works—

(i) building construction works not exceeding twenty billion kwacha (K20,000,000,000.00); and

(ii) civil and road works not exceeding thirty billion kwacha (K30,000,000,000.00).

(2) A citizen-influenced company, citizen-empowered company or a citizen-owned company participating in a public procurement that exceeds the estimated values provided for in sub-regulation (1) shall not be eligible for reservation as specified in sub-regulation (1).

Non-consulting services

6. A procurement of a non-consulting service below the value of one billion kwacha (K1,000,000,000.00) shall, unless it is not possible to acquire the services of a citizen-influenced company, citizen-empowerment company or citizen-owned company, be exclusively reserved for a citizen-influenced company, citizen-empowerment company or citizen-owned company.

Staff of foreign bidder

7. A foreign bidder who is awarded a contract and requires personnel in order to execute the contract shall, where practicable, ensure that at least forty percent of its key personnel are citizens.

Evaluation of bids on functionality

8. (1) A State institution shall indicate, in the solicitation documents in respect of a particular bid invitation, if the bid may be evaluated on its functionality and the evaluation criteria for the functionality specified in the solicitation documents.

(2) A Procurement Unit shall disqualify a bid where the bid does not meet the minimum functionality requirement specified in the solicitation documents.

(3) A Procurement Unit shall consider, for the next stage of the evaluation process, a bid that meets the minimum functionality requirement specified in the solicitation documents.

Cancellation and re-invitation of bids

9. A Procurement Unit shall cancel a bid for procurement where—

(a) the need for the procurement has ceased to exist or changed significantly;

(b) funding for the procurement is not sufficient;

(c) there is a significant change in the required technical details, bidding conditions, conditions of contract or any other details;

- (d) the Procurement Unit does not receive responsive bids;
- (e) there is evidence of collusion among the bidders;
- (f) it is in the public interest to cancel the bid; or
- (g) there is evidence of corrupt practices by a public officer or a bidder.

LUSAKA

12th April, 2011

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