



# **BID EVALUATION GUIDELINES**





**BID EVALUATION GUIDELINES FOR THE  
IMPLEMENTATION OF ENERGY COMMISSION  
(LOCAL CONTENT AND LOCAL  
PARTICIPATION) (ELECTRICITY SUPPLY  
INDUSTRY) REGULATIONS, 2017 (L.I.2354)**

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## LIST OF ABBREVIATIONS

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<b>Abbreviation</b>	<b>Definition</b>
AOS	All other Staff
EC	Energy Commission
ESI	Electricity Supply Industry
ITT	Invitation to Tender
LC&LP	Local Content and Local Participation
L.I.	Legislative Instrument
O&M	Operations and Maintenance
WTBD	Weight to Be Determined





## **1.0 INTRODUCTION**

These guidelines are issued this 20<sup>th</sup> February, 2024 in fulfilment of Regulations 33 and 34, of the Energy Commission (Local Content and Local Participation) (Electricity Supply Industry) Regulations, 2017 (L.I. 2354).

## **2.0 BACKGROUND**

The Energy Commission (Local Content and Local Participation) (Electricity Supply Industry) Regulations, 2017, (L.I. 2354) entered into on 22<sup>nd</sup> December, 2017. The key objectives of the Regulations are to ensure that Service Providers engaged in activities in the ESI make maximum use of financial capital, expertise, goods, works and services locally to enhance Ghana's economy by;

- i. creating employment for Ghanaians;
- ii. promoting business in the ESI;
- iii. retaining the benefits in the Republic;
- iv. developing local capacity;
- v. promoting technology transfer; and
- vi. promoting research and development.

Regulation 33 states that “A Service Provider shall in accordance with, applicable laws, establish and implement a bidding process for acquiring goods and services in the ESI which gives full and fair opportunity to indigenous Ghanaian Service Providers and consider local content in the evaluation of bids”.

### **3.0 PURPOSE OF GUIDELINES**

These Guidelines are to establish the processes for evaluating bids received for procurement of goods, works and services in the ESI with the objective of ensuring that local content and local participation is provided for-

Specifically, the guidelines are to ensure that first consideration is given to goods manufactured and services provided in-country in accordance with L.I. 2354.

### **4.0 APPLICATION**

These guidelines are for the use of Service Providers in the Electricity Supply Industry for evaluation of bids for the procurement of goods, works and services and shall be read in conjunction with the L.I. 2354. The L.I.2354 defines a Service Provider to include:

- a. a person licensed to provide a service under the Energy Commission Act, 1997 (Act 541) or the Renewable Energy Act, 2011 (Act 832) herein referred to as “Category A Service Providers”;
- b. an operator, contractor, subcontractor or any other person performing paid services for a person operating under paragraph (a) herein referred to as “Category B Service Providers”; or
- c. a person who is registered under L.I.2354 to manufacture electrical equipment, electrical appliance or renewable energy equipment herein referred to as “Manufacturer”

## **5.0 REQUIREMENT OF VALID CERTIFICATE OF AUTHORIZATION**

A Service Provider without a valid Certificate of Authorization or a Manufacturer without a valid Certificate of Registration, issued in accordance with the Regulations, prior to issuance of the Invitation to Tender (ITT) is not qualified to participate in the bidding process, and hence, shall not bid for a contract or engage in any activities in the industry, except otherwise determined by the Local Content and Local Participation Committee. The Certificate of Authorization and Certificate of Registration, where applicable, shall be an eligibility requirement for partaking in the bidding process in the ESI.

## **6.0 REGISTRATION AND PARTICIPATION IN THE BID PROCESS**

1. Category A and B Service Providers intending to bid for contracts within the ESI must be registered with the Energy Commission (EC) and obtained a valid Certificate of Authorization prior to taking part in the bid process
2. Manufacturers intending to bid for contracts within the ESI must be registered with the EC and obtain a valid Certificate of Registration prior to taking part in the bid process.
3. Category A Service Providers shall engage only the services of Category B Service Providers and Manufacturers that have registered and have obtained a valid Certificate of Authorization and Certificate of Registration respectively from the EC for activities in the ESI in accordance with L.I.2354.
4. Where a non-indigenous entity intends to provide goods and services to a Service Provider in the ESI, that entity must do so in partnership with an indigenous entity in accordance with participation levels set out in the First to Seventh Schedule of

L.I.2354. For the purposes of these Guidelines, partnership refers to joint ventures, channel partnerships, strategic alliances, or any form of collaboration between entities or individuals to provide services in the ESI.

## **7.0 REQUIREMENTS FOR SOLE SOURCING PROCUREMENT**

A Service Provider that intends to procure goods, works and services through sole source contracts shall, without prejudice to the Public Procurement Act, 2016, Act 914,

- i. ensure that first consideration is given to entities with the capacity to provide such goods, works and services produced in country in accordance with L.I.2354. such goods, works and services shall meet the specifications of the industry as established by the Ghana Standards Authority, or by other internationally acceptable standards.

The entity to provide such sole sourced goods, works and services, if resident outside the country, shall provide the goods works and services in partnership with an indigenous Ghanaian company

## **8.0 REQUIREMENTS FOR OTHER METHODS OF PROCUREMENT**

In addition to applicable laws, a Service Provider i.e. the bid owner shall evaluate each bid in accordance with the fundamental rules of bid evaluation as provided in Regulation 34 of L.I.2354. Pursuant to Regulation 34(7) of L.I.2354, the level of local content of each bidder shall be assessed taking into consideration the management,

employment, value creation, tax contribution, quality of and use of local materials. In accordance with Regulation 34(4) of L.I.2354, where the bids are adjudged equal, the bid with the highest evaluated local content shall be awarded the contract.

### **8.1 Issuance of Tender-Specific Bid Evaluation Criteria**

In accordance with Regulation 34(5) of L.I.2354, the Committee will approve the benchmark for measuring local content/percentage allocation for local content and local participation, which will be determined by the Service Provider, for a specific bid on a case-by-case basis. This will be done within twenty-one (21) days after the submission of documents prior to issuing a notification to prospective bidders to the Committee as highlighted in the Ninth Schedule of L.I.2354.

### **8.2 Evaluation Criteria for Assessment of Bids**

When assessing bids, the service provide shall integrate local content and local participation evaluation criteria into the technical evaluation criteria. The weighted score assigned should encompass assessments for both local content and local participation.

A Service Provider shall ensure that bidders meet the minimum local content scoring during the technical evaluation stages of the bidding process before proceeding to the subsequent evaluation stage within the procurement process.

### 8.3 Evaluation of Local Content and Local Participation

In accordance with Regulation 34 (7) of L.I.2354, the following shall be considered when evaluating the Local Content and Local Participation commitments made by each bidder:

A. **Local Content** (i.e. the percentage of utilization of Ghanaian human and material resources, services and business in monetary terms for the systematic development of national capacity and capability for the enhancement of the Ghanaian economy)

i. **Employment of Human Resource** (i.e. the engagement of Ghanaians in Management, Operations and Maintenance and all other staff according to levels set out in the L.I.2354) (including the balance of Gender and persons with disability);

ii. **Utilization of local goods, works, and services** (i.e. use of Ghanaian expertise, locally manufactured/sourced goods/materials, and services).

iii. **Tax Contribution** (i.e. entity's tax contribution or return to government from its operations).

iv. **Value Creation** (i.e. additional value added to input to make it more useful).

B. **Local Participation** (i.e. the percentage of local equity ownership of the Service Providers in accordance with levels set out in the first to sixth schedule and Regulation 23 for manufacturers)

## 8.4 Local Content and Local Participation Score Weighting

Weighting of local content and Local Participation score shall be computed as shown below. The weight to be allocated to each commitment shall be determined by the Local Content and Local Participation Committee on a case-by-case basis which is described as the Weight to Be Determined (WTBD). The Committee shall take into consideration the availability of local capacity to undertake the assignments indicated in the procurement plan in determining the WTBD.

### A. Local Participation:

$$\text{Percentage of Ghanaian ownership in entity} * WTBD^1\% = (a)$$

### B. Local Content:

- i. Management;

$$\frac{\text{Total number of Ghanaians in management positions}}{\text{Total number of staff in management positions}} * WTBD^2\% = (b)$$

$$\frac{\text{Total Gross Salary of Ghanaians in Management}}{\text{Total Gross Salary of Management Staff}} * WTBD^3\% = (c)$$

- ii. Operations and Maintenance (O&M) (Where applicable);

$$\frac{\text{Total number of Ghanaians in O\&M}}{\text{Total number of staff in O\&M}} * WTBD^4\% = (d)$$

$$\frac{\text{Total Gross salary of Ghanaians in O\&M}}{\text{Total Gross salary of O\&M Staff}} * WTBD^5\% = (e)$$



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- iii. All other staff (AOS) (All Staff excluding Management and O&M)

$$\frac{\text{Total number of Ghanaian AOS} \times \text{WTBD}^6\%}{\text{Total number of AOS}} = (f)$$

*and*

$$\frac{\text{Total Gross Salary of Ghanaian AOS} \times \text{WTBD}^7\%}{\text{Total Gross of AOS}} = (g)$$

- iv. Utilization of local goods, works and services

$$\frac{\text{Total amount spent on goods and services from Indigenous Ghanaian Companies} \times \text{WTBD}^8\%}{\text{Total amount spent on all goods and services}} = (h)$$

- v. Tax Contribution

$$T = \frac{\text{Tax Amount Paid} \times \text{WTBD}^9\%}{\text{Total Income}}$$

- vi. Value Creation

$$V = \text{Selling price of a unit of a product} - \text{cost price of unit of input} \times \text{WTBD}^{10}\%$$

**OR**

$$\text{Value Creation (V)} = \text{Selling price of a unit of a product} - \text{cost of production of unit of input} \times \text{WTBD}^{10}\%$$

*WTBD<sup>1</sup>-Weight To Be Determined by Committee for “Local Participation”*

*WTBD<sup>2</sup>-Weight To Be Determined by Committee for “Management”*

*(Headcount)*

*WTBD<sup>3</sup>-Weight To Be Determined by Committee for “Management” (Value)*

*WTBD<sup>4</sup>-Weight To Be Determined by Committee for “Operations and Maintenance” (Headcount)*

*WTBD<sup>5</sup>-Weight To Be Determined by Committee for “Operations and Maintenance” (Value)*

*WTBD<sup>6</sup>-Weight To Be Determined by Committee for “All other staff” (Headcount)*

*WTBD<sup>7</sup>-Weight To Be Determined by Committee for “All other staff” (Value)*

*WTBD<sup>8</sup>-Weight To Be Determined by Committee for “Utilization of local goods, works and services”*

*WTBD<sup>9</sup>-Weight To Be Determined by Committee for “Tax Contribution”*

*WTBD<sup>10</sup>-Weight To Be Determined by Committee for “Value Creation”*

**$WTBD^1+WTBD^2+WTBD^3+WTBD^4+WTBD^5+WTBD^6+WTBD^7+WTBD^8+WTBD^9+WTBD^{10}$  =Approved Percentage allocation for local content and local participation.**

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Local Content and Local Participation Score										
Item	Local Participation (%)	Local Content						Tax Contribution	Value Creation	Grand Total Score for LC&LP
		Employment			Quality and Use of Local Materials					
Score	a	Management		O&M		All other Staff		T	V	a+L+T+V
		b	c	d	e	f	g			
Sub Total	a	i=b+c		j=d+e		k=f+g		L=I+J+K+h	V	a+L+T+V
Total	a									

## **8.5 Award of Contract**

Pursuant to Regulation 34(4), during the evaluation of bids, where the bids are adjudged equal, the bid containing the highest local content shall be selected.

In the award of contract, where the total value of the bid of an indigenous Ghanaian company exceeds the lowest evaluated bid by not more than ten percent, the Service Provider (i.e. bid owner) shall award the contract for provision of such goods, works and services to the indigenous Ghanaian company

## **9.0 BID EVALUATION REPORT**

Prior to the award of contract, the Service Provider shall provide the statement of award rationale or Bid Evaluation Report after the bid evaluation process. This report shall show the following;

- a) The list of bidders
- b) The selected contractor for which the following shall be provided
  - i. the name;
  - ii. the list of designated subcontractors or sub-vendors; and
  - iii. where applicable, a list of proposed sub-suppliers;
- c) the commencement and completion dates for the contract or purchase order;
- d) the Award Notification Form signed by an appropriate official of the operator;
- e) a statement of award rationale or bid evaluation report showing;
  - the percentage difference in price between the selected bidder and the other bids;

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- the primary location of work associated with the bid of each bidder;
  - the estimate of Ghanaian content associated with the bid of each bidder calculated in accordance with the definition of the Ghanaian content to be provided by the Local Content Committee; and
- f) any other information relevant to the evaluation of bids including where applicable, a summary of the technical, commercial, and Ghanaian content aspects of the bid evaluation

## DEFINITIONS

**“Category A Service Provider”** means a person seeking licensed to provide a service under the Energy Commission Act, 1997 (Act 541) or the Renewable Energy Act, 2011 (Act 832);

**“Category B Service Providers”**; an operator, contractor, subcontractor or any other person performing paid services for a Category A Service Provider;

**“Manufacturer”** a person who is registered under L.I.2354 to manufacture electrical equipment, electrical appliance or renewable energy equipment;

**“Contractor”** a person or firm that undertakes a contract to provide materials or labour to perform a service or do a job in the ESI; and

**“Indigenous Ghanaian Service Provider”** means service provider who is a Ghanaian citizen or a company in which a Ghanaian citizen owns a minimum of fifty-one percent equity.

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