

PUBLIC PROCUREMENT BOARD

GUIDELINES FOR MARGINS OF PREFERENCE

1.0 INTRODUCTION

In accordance with Section 60 (3) of the Public Procurement Act, 2003 (ACT 663) the Public Procurement Board is required to issue guidelines for implementing margins of preference for domestic Contractors and Suppliers of goods, works and services.

In fulfillment of its statutory mandate and in consultation with the Minister of Finance and Economic Planning, the Board has developed these Draft Guidelines for Margins of Preference to be used by all Procurement Entities pending approval by Parliament.

1.1 POLICY OBJECTIVE

The broad objective for applying margin of preference is to assist the local business community to become competitive and efficient suppliers to the public sector (Section 3 (t) of Act 663). The margin of preference is applicable to Goods, Services and Works.

2.0 PROPOSALS FOR MARGINS

2.1 GOODS

Margins of Preference will be allowed under National Competitive Tendering as well as International Competitive Tendering.

Eligibility for preference for goods is determined by the sources of the domestic goods and not by the nationality of the Tenderer. The Nationality of the Tenderer or Supplier is irrelevant, making it clear that the preference is given to the GOODS and not to the Tenderer:

To qualify under DOMESTIC GOODS the following conditions should be met:

1. where local labour, raw materials and components from within Ghana account for 15 percent or more of the Ex-Works (EXW) price of the product offered.
2. Where imported raw materials or components constitute the bulk of the inputs and local labour and additional components are required for processing into finished products and the proportion of domestic value added is equal to 10 percent or more of the Ex Works (EXW) price of the product offered.

Goods satisfying Condition (1) will attract a margin of preference of 20 percent and those meeting Condition (2) will attract 15 percent.

2.2 WORKS

Under works Margin of Preference is applied to International Competitive Tendering (ICT). This is because in Ghana, most of the Contractors tendering for Works under the National Competitive Tendering are locally registered firms/contractors. Thus they are classified as DOMESTIC CONTRACTORS.

To be eligible for the margin of domestic preference under ICT, the following minimum criteria must be met:

(a) Domestic Contractors

- i. are registered and incorporated under the laws of Ghana;
- ii. have majority shareholding by Ghanaians; and
- iii. will not subcontract more than 50 percent of the total value of the works to foreign contractors.

(b) Joint Ventures

A joint venture between a domestic Contractor and its foreign partner is eligible for preference only if:

- i. the domestic partner(s) would not qualify for the Work on technical or financial grounds without the foreign partner's participation; and
- ii. the domestic partner(s) demonstrate a beneficiary interest of not less than 30 percent in the Joint Venture as demonstrated by the profit and loss sharing provisions of the joint venture agreement.

(c) Subcontracting by Foreign Firms

Foreign firms may be eligible for domestic preference if they undertake to do the following:

- i. subcontract 30 percent or more of the value of the works to a Domestic Contractor

The margins of preference for Works are as follows:

- i. 10 percent for Contractors satisfying criteria (a)**
- ii. 7.5 percent for Contractors satisfying criteria (b) or (c)**

2.3 SERVICES

To promote the development of Ghanaian technical and professional capability to contribute to the economic progress of Ghana, the following incentive shall be allowed under the Technical Scores when evaluating proposals for services.

The use of local expertise should be given points ranging from 10 – 15 points during the evaluation of Technical Proposals.

The minimum of 10 points will be awarded where 40 percent of the Key Personnel are Ghanaians. This will apply irrespective of the proposal coming from a wholly Ghanaian-owned firm or a joint venture led by a foreign firm

CHIEF EXECUTIVE - PPB