



REPUBLIC OF KENYA
THE NATIONAL TREASURY

Telegraphic Address: 22921
Finance – Nairobi
FAX No. 310833
Telephone: 2252299

THE NATIONAL TREASURY
P. o .Box 30007
NAIROBI

When Replying Please Quote

Ref: NT/PPD/1/3/26 (24)

25th September, 2013

TREASURY CIRCULAR NO 14/2013

All Accounting Officers
All Chief Executive Officers, State Corporations
All County Governors
All Vice Chancellors, Public Universities
All Managers Co-operative Societies
All Principals, Public Colleges/Schools
All CDF Account Managers

RE: PRESIDENTIAL DIRECTIVE:- 30 PERCENT OF ALL GOVERNMENT
PROCUREMENT BE ALLOCATED TO THE YOUTH, WOMEN AND
PERSONS WITH DISABILITIES

H.E. The President directed that 30% of all Government Tenders be awarded to Youth, Women and Persons with Disabilities. Following this directive, the Public Procurement & Disposals (Preferences and Reservations) Regulations were amended vide Legal Notice No. 114 of 2013. Regulation 31 (1) of the referenced amendment stipulates that 30% of all Government Tenders are to be awarded to this target group.

The regulations are in line with Article 227 of the Constitution of Kenya 2010, which require state organs or any other public entity to be fair in contracting for procurement of public goods and services, including the development of provisions to designate categories of preferences in the allocation of contracts, and the protection or advancement of persons, categories of persons or groups previously disadvantaged by unfair competition or discrimination.

This circular is therefore issued to guide accounting officers and heads of procurement entities on the implementation of the 30% preferences and reservations for women, youth and persons with disabilities in line with the presidential directive.

1 Registration of the Disadvantaged Groups

In line with Legal Notice No. 114 of 2013, The National Treasury (Public Procurement Department) shall prequalify and register the Youth, Women and Persons with Disabilities for participation within the programme whereas the County Treasuries are charged with this responsibility at the County level. The Public Procurement Oversight Authority (PPOA) shall monitor the implementation of the Reservation Scheme as stipulated by Regulation 30 of the Public Procurement & Disposal Regulations of Legal Notice No. 58 of 2011.

2 Reservations and preferences for the youth, women and persons with disabilities

The Treasury circular Ref No. Conf. 5/4/04(24) dated 17th October 2012 still holds and the following are to be reserved and preferred for youth, women and persons with disabilities owned enterprises:-

Reservations

1. Supply and delivery of flowers
2. Provision of cleaning services
3. Provision of garbage collection services
4. Supply and delivery of newspapers, journals and magazines
5. Supply and delivery of mobile phone air time
6. Provision of printing services
7. Supply and delivery of office common user items
8. Provision of labour contracts
9. Provision of motor vehicle repair
10. Provision of repair services for office equipment and Machines
11. Event organizing
12. Design and branding of promotional materials such as T/shirts, caps, banners and posters
13. Photo copy and videography



Preferences

1. Car leasing
2. Cab/taxi services
3. Courier services
4. Provision of security services
5. Contracts for small works
6. Provision of painting works

Procuring Entities wishing to amend the list of items under the scheme should notify the National Treasury, Public Procurement Directorate (PPD), enumerating the reasons for their proposed list of items.

3 Inclusion of the 30% procurement in the bid documents

The Procuring Entities are now mandatorily required to allocate 30% of all their procurement spend for the purposes of procuring goods, works and services from micro and small enterprises owned by youth, women and persons with disabilities.

Where applicable, express notification on the 30% public procurement for the scheme must be included in the following bid documents:

- The Expression of Interest (EOI)
- The tender document
- The request for quotation (S10)

4 Budgets, Procurement Plans, Tender Notices and Contract Awards

Regulation 31(2) of Legal Notice 114 of June 18 2013 stipulates that the procuring entities shall implement the directive through their budgets, procurement plans, tender notices and contract awards.

5 Unbundling procurements

A procuring entity in unbundling procurements, may lot goods, works and services in quantities that are affordable to the target group participating in public procurement proceedings. Regulation 19 provides that for purposes of ensuring maximum participation of citizen contractors, disadvantaged



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groups, small and micro-enterprises in public procurement, procuring entities may unbundle goods, works and services in practicable quantities pursuant to section 31(7) of the Public Procurement & Disposal Act.

6 Facilitation for finance of local purchase orders and service orders

Further Regulation 33 provides that Procurement Entities shall facilitate the Youth, Women and Disabled Persons by authenticating their notifications of tender awards and local purchase or service orders and subsequently entering into an agreement with the relevant financing institution with conditions that shall include paying the contracted enterprise through their account opened with the financier.

7 Prompt Payment

Regulation 34 provides that for the purposes of ensuring sustained growth for enterprises owned by youth, women and persons with disabilities, procuring entities shall make prompt payments for all performed contracts through electronic media where possible and shall not delay beyond thirty days.

8 No requirement for tender security

Regulation 21 of legal Notice No. 58 of 2011 provides that no tender securities shall be required by entities owned by youth, women and persons with disabilities under the Preferences & Reservations Scheme. However, the said enterprise shall be required to sign a Tender Security Declaration Form.

9 Monitoring the Implementation of the 30% Procurement

The following units will be involved in the monitoring of the implementation:

- The respective public entity
- The National Treasury (Public Procurement Directorate – PPD)
- Ministry of Devolution and Planning
- Overall the Public Procurement Oversight Authority as provided for in the Public Procurement and Disposal act section 9(b)



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10 Committee Membership

In order to secure compliance with the regulations, all Tender Committees, Procurement Committees and Tender Opening Committees shall include representation from the Central Planning and Project Monitoring Units (CPPMU) officers designated from the Ministry of Devolution and Planning. In particular, the head of the CPPMU shall be a member of the Tender Committee, while the designated youth and gender officers within the CPPMU office shall be members of the Tender Opening Committees in all procuring entities. Procuring entities not having CPPMU officers are to designate gender and youth officers to sit in the respective Tender Committees and Tender Opening Committees as appropriate.

11 Reporting

The procuring entities shall, prepare reports on a quarterly basis on the implementation of the scheme and submit to the Public Procurement Oversight Authority copy to the National Treasury, Public Procurement Directorate (PPD), and the Ministry of Devolution and Planning. The report shall indicate a summary of the contracts awards, the names of youth, women and persons with disabilities owned enterprises, categories of goods and services and the total monetary amount involved.

You are requested to bring the contents of this Circular to the attention of all officers concerned under your jurisdiction to ensure its adherence when conducting procurement under the scheme. Finally you are advised to revert to the National Treasury (PPD) in the event of any operational challenges in the course of procurement proceedings.



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Attached find copies of the preference and reservations regulations under Legal Notice No. 58 of 2011; Legal notice No. 114 of 2013 and Treasury circular No.10 of 2013 for your immediate implementation.



HENRY ROTICH
CABINET SECRETARY/NATIONAL TREASURY

CC. **Cabinet Secretary**
Ministry of Devolution and Planning
Treasury Building
Nairobi

Attorney General
State Law Office
Nairobi

Auditor General
Kenya National Audit Office
Anniversary Towers
Nairobi

Controller of Budget
Bima House
Nairobi



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