

Laws and Regulations on Inclusion of SMEs in PPPs

Full Description

Also included are examples of laws and regulations supporting local content, which often has the effect of also supporting SMEs. SME inclusion or local content provisions relating to PPPs can be found in several different places in the legal framework, including in:

- [PPP Laws and Regulations](#)
- [Public Procurement Laws and Regulations](#)
- [Laws and Regulations Generally Promoting SME or Local Content](#)
- [Sector-Specific Laws and Regulations](#)

The laws, regulations and policies above are organized in these sub-categories, and have different and innovative approaches, such as: reserving a specific percentage of the public budget to selection processes addressed exclusively to SMEs; special notice mechanisms particularly directed to SMEs; initial monetary advances to the SMEs so that they can strengthen their financial capability; extra points for bidders that include subcontracting to SMEs; and an obligation for contracting authorities to consider dividing projects into several smaller contracts.

In order to better compare the various approaches, a [table of sample provisions related to SMEs inclusion in PPPs](#) has been provided below and is also available for download [here](#); as well as a selection of [related reading](#).

SMEs and Local Content Inclusion in Countries' PPP Legislations

Set out below is a summary of sample clauses. This table is also available for [download](#).

Country	SME & Local Inclusion	Reference
Fiji	The Act provides legal basis for requirements on level or kind of local content in the future PPP implementation regulations.	Fiji Public Private Partnerships Act 2006 (art.9(1)(j)) Implementation Regulations must prescribe the framework and parameters under which the public private partnership will operate and, without limitation, may prescribe- (j) the level or kind of local involvement that is expected or preferred; and whether any concessions might be made in return for local involvement;

<p>Kyrgyz Republic</p>	<p>The Law requires compulsory participation of local community directly impacted by the PPPs into the tender commission.</p>	<p><u>The Law on Public-Private Partnerships in the Kyrgyz Republic (art.19(2))</u></p> <p>The tender commission shall have an odd number of members of at least 5 people. The tender commission shall include ... a representative of the local community directly impacted by the PPP project.</p>
<p>Malawi</p>	<p>The Bill provides legal basis for requirements on level or kind of local content in the future PPP regulations and concessions.</p>	<p><u>Malawi Public-Private Partnership Bill, 2010 (art.69(j))</u></p> <p>The Minister may, on the advice of the Commission, make regulations for carrying out or giving effect to the provisions of this Act, and without prejudice to the generality of the foregoing, such regulations may prescribe – (j)the level or kind of local involvement that is expected or preferred; and whether any concessions might be made in return for local involvement;</p>
<p>Nigeria</p>	<p>The Act indicates that the extent of participation by local personnel, the encouragement of employment and the transfer of technology must be analyzed in the evaluation of a proposal.</p>	<p><u>Nigeria Public Procurement Act, 2007 (art.49(1)(d))</u></p> <p>The procuring entity shall establish criteria to evaluate the proposals and prescribe the relative weight to be accorded to each criterion and the manner in which they are to be applied in the evaluation of: ... (j) ... the extent of participation by local personnel, the economic development potential offered by the proposal, including domestic investment or other business activity, the encouragement of employment, the transfer of technology, the development of managerial, scientific and operational skills and the counter trade arrangements offered by consultant or service providers.</p>
<p>Rwanda</p>	<p>The Law provides that local preference not exceeding 10% may be granted to Rwanda companies or Rwandan nationals or bidders in regional economic integration bodies member states.</p>	<p><u>Rwanda Law N° 12/2007 of 27/03/2007 on Public Procurement (art.41)</u></p> <p>Local preference not exceeding 10% may be granted to companies registered in Rwanda or to Rwandan nationals and bidders in regional economic integration bodies member states. Such local preference shall be included in the bidding document and defined in the procurement regulations.</p>

<p>Tanzania</p>	<p>The Regulation provides that up to 10% of margin of preference shall be granted to qualified citizens of Tanzania or associations between local and foreign firms in both national and international competitive tendering or selection.</p>	<p><u>Tanzania Public Private Partnership Regulations, 2015 (art.34(5)(6))</u></p> <p>(5) Tenderers who are citizens of Tanzania or associations between local and foreign firms, shall be eligible to be granted a margin of preference only if they meet the criteria provided in these Regulations, and are registered by the Tanzania Investment Centre.</p> <p>(6) A contracting authority shall, when procuring solicited or unsolicited public private partnership projects by means of national and international competitive tendering or selection, grant a margin of preference of up to ten (10) percent for the benefit of local investors or association between local and foreign investor as prescribed in the Sixth Schedule to these Regulations.</p>
<p>Trinidad and Tobago</p>	<p>The Act provides that limited participation method may be applied during procurement proceedings to promote local industry development and local content.</p>	<p><u>Trinidad and Tobago Act No.1 of 2015 (Public Procurement Act) (art.4 & art.28(1))</u></p> <p>Art. 4 “local content” means the local value added to goods, works or services measured as the amount of money or percentage of each dollar of expenditure remaining in Trinidad and Tobago after the production of the good or the performance of the work or service;</p> <p>“local industry development” includes those activities that serve to enhance local capacity and competitiveness by involvement and participation of local persons, firms and capital market and knowledge transfer during the conduct of the programme of goods, works or services that are being procured;</p> <p>Art.28(1) A procuring entity may limit participation in procurement proceedings to promote local industry development and local content.</p>

<p>Zambia</p>	<p>The Act provides that open national bidding and selection shall be limited to citizens and local bidders while in open international bidding and selection, foreign bidders shall partner with Zambia citizens or supplier. In addition, margin of preference may be granted to a bidder in consideration of policies pertaining to citizen or local suppliers/industries or SMEs.</p>	<p><u>Zambia Public Procurement Act, 2008 (art.26 & 28 & 63)</u></p> <p>Art.26 & 28 Participation in open national bidding and selection shall be limited to citizen and local bidders. A foreign bidder shall partner with a citizen or local supplier or bidder in open international bidding and selection</p> <p>Art.63 A procuring entity may ... (a) grant a margin of preference for the benefit of bids by a target group offering goods, works or services manufactured or performed by the target group, [for which] any preference or reservation scheme shall be determined in accordance with Government economic and social policies and may include – (a) citizen or local suppliers; (b) goods, works or services manufactured in or provided from Zambia or a particular region or performed by Zambians or persons from a particular region; (c) Zambian suppliers in a particular industry or economic sector; (d) small and medium-sized enterprises;...</p>
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More information on SME inclusion or local content provisions relating to PPPs can be found at [PPP Laws and Regulations](#), [Public Procurement Laws and Regulations](#), [Laws and Regulations Generally Promoting SME or Local Content](#) , [Sector-Specific Laws and Regulations](#) as well as from the from the [further reading](#) section below.

Further Reading

[Increasing Local Content in the Procurement of Infrastructure Projects in Low Income Countries](#)

This document from Engineers Against Poverty discusses several actions that can be taken in order to enable local development through infrastructure projects. It discusses how to promote local content as a policy objective and what steps can be given forward to a practical implementation of local content in infrastructure projects.

[The Economic Impact of Local Content Requirement](#)

In the document the Organization for Economic Co-operation and Development (OECD) notes the effects of local content policies on the economy and industrial competitiveness in general. The OECD explains the decrease on international trade as a result of this type of policies; the surge of costs in domestic market targeted by the policy; and finally the Organization considers that “economy-wide, horizontal policies provide the best possible environment for the economy to expand along areas of comparative advantage, while allowing for development of new growth areas.” See also [Emerging Policy Issues: Localization Barriers to Trade](#), also by the OECD.

[Local Content in Policies in the Oil and Gas Sector](#)

This document from the World Bank presents the results of a study done on the local content policies in the oil and gas sector. It explains how these type of policies although with the potential to “stimulate broad-based economic development”, have showed mixed results, and what their effects are in certain sectors of the economy.

The document goes through several topics such as what local content policies are; arguments in favor and against them; different local content policy instruments that have been used by petroleum-producing countries; and case-studies.

[A Guide to Getting Started in Local Procurement](#)

This is a Guide prepared by the International Finance Corporation in collaboration with Engineers Against Poverty that aims to help companies, interested in creating linkages with local small and medium enterprises, create a policy that engages local content in their procurement processes.

The document is divided in 4 chapters which are meant to be the steps to follow for a successful local content policy. Those are: 1. Company self-assessment; 2. Business drivers; 3. Defining local; and 4. Policy.

[Local Content Policies and Programs: An Enabler for Development and Growth in Africa](#)

In this document, Bechtel shares some of its experiences in implementing local content in the delivery of its projects and cites case-studies as examples.

[Addressing Local Content Requirements in a Sustainable Energy Trade Agreement](#)

This document discusses several topics of local content requirements (LCR) in renewable energy projects such as arguments in favor and against them; their effectiveness; cases involved LCR in solar and wind energy; and alternatives for dealing with LCR.

For more discussions on the potential use of SMEs in PPP projects and some capacity building initiatives applied by government for building capacity of domestic private sector in developing countries can be found in the [further reading](#) section of [Small and Medium Enterprises and PPPs](#).

Related Content

[SMEs and PPPs](#)

[Promotion of SME Participation in PPP Laws and Regulation](#)

[Promotion of SMEs/Local Content in Public Procurement Laws and Regulation](#)

[Sector-Specific Laws and Regulations Promoting SMEs/Local Content](#)

[Bidding Documents and Contractual Provisions regarding inclusion of SMEs in PPPs](#)

[Examples of Policies of International Contractors Promoting SMEs](#)

[Examples of Policies that Incorporate Existing Operators into New PPPs](#)

[Further Reading in SMEs and PPPs](#)

Additional Resources

[Sub-national and Municipal PPPs](#)

[Gender Equality & PPPs](#)

[Small Scale Water Projects - Rural and Peri-Urban](#)

[How to foster a more inclusive environment for SMEs in PPPs?](#)