

LOCAL CONTENT REGULATIONS

GUIDELINES FOR GOODS AND SERVICES PROCUREMENT OBLIGATIONS, EMPLOYMENT PROGRAMMES, TRAINING PROGRAMMES, ASSOCIATION WITH NATIONALS AND PREFERENTIAL PROCUREMENT, CONDUCT ADJUSTMENT, AND RELEVANT REPORTS

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VdA EXPERTISE



Ministerial Order 55/2024, of 5 July 2024 came into force on 5 July 2024 (the "Order")

The Order lays down the Guidelines for Concessionaires operating in the petroleum sector and required to comply with local content rules on Goods and Services Procurement Obligations, Employment Programmes, Training Programmes, Association with Nationals, Preferential Procurement (hereinafter referred to as "Local Content Obligations"), Conduct Adjustment and relevant Reports.

These Guidelines are to be read together with the clauses of the relevant Concession Contracts and relevant petroleum legislation.

Scope and goals

The Order applies to Concessionaires conducting Petroleum Operations under the relevant Concession Contracts signed with the Government and is designed to:

- Ensure jobs for and train nationals engaging in Petroleum Operations through national and international cooperation;
- Ensure that National Suppliers participate in goods and services procurement for Petroleum Operations;
- Standardize the process for submitting information and proof of compliance with the obligations arising from this Order;
- Regulate Conduct Adjustment in the event of Concessionaires' failure to comply with the local content obligations established in this Order.

Local Content Obligations

This Order sets out the guidelines and rules for Concessionaires conducting Petroleum Operations, regarding:

- Employment Programmes;
- Training Programmes; and
- Association with Nationals and preferential procurement.

The general features of each obligation are set out below:

A. Employment Programmes

Concessionaires engaging in Petroleum operations are required to employ nationals.

Recruitment of employees must therefore privilege engaging nationals, preferably residing in the relevant concession area. The following minimum number of nationals must be employed:

- Senior positions – 25%
- Skilled technical positions – 85%
- Total positions – the maximum quota of foreigners provided for by law or in investment projects approved by the government.

B. Training programmes

Concessionaires must offer scholarships for training at educational institutions or universities in Mozambique or abroad as part of their obligation to help train nationals. The selection process must be done through a public tender, approved by the INP beforehand, and target:

- National natural persons; who
- Preferably reside in the relevant concession area; and
- No less than 40 per cent of nationals who have never worked for an oil company.

The Order further establishes the types of training allowed under the training programmes and the criteria for the minimum number of training scholarships that the Concessionaires must grant for the duration of the relevant concession contracts, as follows:

- During the Exploration and Development Period and for USD 50,000,000.00+ investments, concessionaires must ensure the following minimum training scholarships for nationals:

- a) 2 training scholarships for higher education;
 - b) 5 training scholarships for technical-vocational courses;
 - c) 5 training scholarships for vocational training courses; and
 - d) 200 training scholarships for Ad Hoc courses.
- During the Production Period and for USD 50,000,000.00+ revenues earned from petroleum production, concessionaires must provide the following minimum training scholarships to nationals:
 - a) 4 training scholarships for higher education;
 - b) 10 training scholarships for technical-vocational training;
 - c) 10 training scholarships for vocational training;
 - d) 400 training scholarships for Ad Hoc courses;

C. Association with Nationals and Preferential Procurement

Regarding the association between national and foreign natural or legal persons for the supply of goods and services to concessionaires, the Order clarifies that all forms of association are admissible under the law, including:

- Shareholdings in companies;
- Joint ventures;
- Consortia; and
- Subcontracting.

Concessionaires must continue to privilege national suppliers or national suppliers associated with foreign legal persons for the procurement of goods and services, if their offer is equivalent in terms of price, delivery time, and quality to those offered by other suppliers and the final price does not exceed

the average price offered by foreign suppliers by more than 10 per cent.

Conduct Adjustment

Concessionaires served with a notice after being inspected and found to be in breach of Local Content Obligations can execute a Conduct Adjustment agreement with the Ministry of Mineral Resources and Energy (MIREME).

In general, the Conduct Adjustment enables the establishment of new obligations set in advance, thus allowing any unfulfilled local content obligations to be novated into new obligations, except when a fine has already been imposed under a final decision in the administrative inspection process that gave rise to the notice of failure to perform local content obligations, in which case novation is not permitted.

The Order also lays down the procedure for concluding a Conduct Adjustment agreement between the Concessionaire fined and MIREME.

Report on Employment, Training and National Goods and Services Procurement – REFC

The concessionaire must submit a quarterly report (RFEC) to the INP, containing complete information to prove performance of the local content obligations, substantially in the form of Annex II to the Order. The relevant procedure is also established in the Order.

The Order is silent on offences and penalties applicable to any failure by the Concessionaires of the Local Content Obligations set forth in this Order.

Contacts



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