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ANGOLAN E-PROCUREMENT SYSTEM – LEGAL FRAMEWORK

Angola has just approved the National E-Procurement System (“SNCPÉ”). Recently published Presidential Decree no. 202/17, of 6 September 2017, establishes the SNCPÉ and defines and regulates its procedures, sets forth the requirements and conditions for its interoperability with other systems, and lays down the rules that Awarding Public Entities (“EPC”) must follow to manage and use the new E-Platform.

The SNCPÉ seeks to promote “thoroughness, efficiency and transparency in the formation and performance of public contracts” by establishing a procurement system capable of bringing about “an improvement of the State suppliers’ selection process”.

An E-Platform is an electronic infrastructure that enables EPCs and goods and services suppliers to keep up with ongoing procurement procedures. The platform enables access to the tender documents, submission of applications or bids, and communication of tender acts.

When will the new regime become applicable and to what entities?

The SNCPÉ will be implemented stepwise, and until full implementation paper and electronic forms will go on coexisting.

The Heads of the Ministerial Departments in charge of Public Finance and Electronic Communications are tasked with defining the strategy and approving features, programs and other solutions to ensure the proper operation of the SNCPÉ.

Whenever procurement procedures are initiated on the E-Platform, it will apply to all public or private entities participating in the formation and performance of public contracts.

The law determines that EPCs are fully responsible for conducting the procedures on the E-Platform, who must fully enforce the procedures set forth in the Public Contracts Act (“LPC”).

Which principles must be ensured?

E-procurement must abide by the following principles:

- Availability principle (allow all interested parties to access the e-platform);
- Non-discrimination principle (applications and computer programs used must be compatible with standard computer programs and the average user);
- Free access principle (access to the e-platform cannot be subject to unreasonable, disproportionate or discriminatory requirements);
- Confidentiality, integrity and safety principle (the e-platform must ensure the secrecy, preservation and inviolability of data provided).

Practical aspects of E-Procurement in Angola

These are the main aspects:

- i. all notices and communications will now be made by email, and the system will ensure the send/receive times;
- ii. authorship of documents is ensured by “Electronic Certification” of the persons intervening in the procedures; electronic and autographic signatures will have equal value;
- iii. applications and bids will be submitted electronically and the platform must ensure that applications or bids can be opened simultaneously;
- iv. technical issues in the E-Platform impairing (or even preventing) applicants or bidders from meeting any deadlines can be grounds to request an extension of or even for the EPC to suspend the deadlines; and
- v. express possibility of administratively challenging acts performed on the E-Platform pursuant to the LCP.

Future challenges for bidders participating in tender procedures

While e-procurement essentially aims at cutting through the red tape of public procurement procedures, truth is that its implementation is not without snags, at least in the beginning.

Its strategy is yet to be defined and features, programs and other solutions are still awaiting approval.