



International  
Labour  
Organization



**REQUEST FOR EXPRESSIONS OF INTEREST  
(INDIVIDUAL CONSULTANTS)**

**EMPLOYMENT INTENSIVE INVESTMENT PROGRAMME (EIIP) COMPONENT:  
PROCUREMENT AND THE LEGAL FRAMEWORK IN ZAMBIA IN RESPECT OF THE  
IMPLEMENTATION OF THE 20% SUBCONTRACTING POLICY**

**INTERNATIONAL LABOUR ORGANIZATION (ILO) IN ASSOCIATION WITH THE  
GOVERNMENT OF THE REPUBLIC OF ZAMBIA THROUGH THE ROAD DEVELOPMENT  
AGENCY (RDA)**

**ASSIGNMENT: INDIVIDUAL CONSULTANCY SERVICES FOR RESEARCH INTO THE  
EVALUATION OF THE 20% SUBCONTRACTING POLICY IN RESPECT OF  
PROCUREMENT AND THE LEGAL FRAMEWORK IN THE ZAMBIAN CONSTRUCTION  
INDUSTRY**

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## **1. BACKGROUND**

The International Labour Organization (ILO), CO-Lusaka is implementing a project called more and better jobs created for Sustainable Livelihood Opportunities for Youth and Women. The overall goal of the project is to ensure that national governments use appropriate, well designed and well managed pro-employment approaches to the delivery of public investments in order to promote resilience, increased access to basic services and improve employment outcomes for poor and vulnerable people in Zambia thereby contributing to inclusive economic growth. The Project has four components: Employment Intensive Investment Programme (EIIP), Employment Policy, Skills Development and Labour Law Reforms and Application of International Labour Standards. The project under the EIIP component works on the following key outcomes:

- a. Inclusive and transparent pro-employment investment strategies mainstreamed in national employment policies and programmes;
- b. Procurement systems, procedures , and legal and regulatory frameworks at national and local level reformed and adopted to increase the participation of small scale enterprises, local contractors and communities in infrastructure delivery;
- c. Capacity of partner institutions for the planning, implementation and monitoring of Employment-intensive investment programmes strengthened, and
- d. Enhanced capacity of stakeholders and institutions to apply tools, methodologies and strategies developed under the programme.

Initial discussions between ILO and the Road Development Agency (RDA) identified the 20% subcontracting policy as one area that required further investigation in respect of the furtherance of the National Development agenda, and it is also an appropriate overlay to the outcomes of the EIIP.

## **2. OBJECTIVES OF THE ASSIGNMENT**

The objective of the assignment is to assist in the development of Inclusive Public Procurement systems in Zambia in order to improve the effectiveness, efficiency and inclusiveness of public procurement processes and regulations in respect of the construction industry and the 20% subcontracting Policy.

The study is expected to inform on the current situation of the public procurement environment in the country and develop a baseline towards finalizing the development, implementation monitoring and evaluation of the 20% subcontracting policy and its legal and regulatory framework particularly in the infrastructure sector. The assessment will also provide recommendations on the best approaches for capacity development of national & sectoral procuring entities for enhancing public procurement systems that accommodates participation and promotion of Small and Medium Enterprises (SMEs), local Contractors, Local communities and special groups in public procurement undertakings and designing Implementation Monitoring and Evaluation Frameworks.

Furthermore this study shall assess the procurement environment of the 20% subcontracting so as to establish whether recommendations for revisions or

amendments of the policy shall be incorporated into new Acts or shall be an overlay on the existing regulatory frameworks. Another aspect that this study shall cover is the form of the structures of implementing organisations so as to benchmark the impact on the success of the initiation, planning and delivery of the 20% subcontracting policy.

In general the assignment seeks to tie the National Development agenda for socio-economic development with the 20% subcontracting so as to enhance chances of success holistically and also to ensure the alignment of policies, strategies and implementation plans.

### **3. SPECIFIC CHALLENGES IN THE SUBCONTRACTING PLANNING AND DELIVERY**

The road sector's contribution to the development agenda for the Zambianisation policy on implementation of the 20% subcontracting policy lacks the legal framework for the delivery of the policy; therefore this entails no punitive measures for abrogation of the policy at the project level.

The challenges that hinder local contractors from participating in the construction of roads in Zambia include, but are not limited to:

- High cost of Construction Equipment coupled with lack of adequate capital;
- High cost of borrowing and lack of deliberate policies/steps to facilitate access to cheaper financing instruments;
- Delayed payments to contractors for certified works due to erratic release of funds from the Ministry of Finance;
- Limited financial and technical capacity by Subcontractors;
- Shortage of appropriate expertise and skills in the local sector;
- Lack of experience in major works.
- In cases where the Main Contractors have frontloaded on selected BOQ work items, lower rates are given to subcontractors. This is because subcontracted works are not clearly stated at tendering stage and it is at the discretion of the Main Contractors to allocate works for subcontracting. Therefore, Main Contractors tend to allocate works with lower rates to Subcontractors.
- No provisions for Preliminary and General Items (P&Gs) in contracts for subcontractors;

- Surveys conducted by the Monitoring and Evaluation Unit of the RDA indicate that several subcontracts are merely on paper and physical works by subcontractors were hardly noticeable;
- Resistance by main Contractors to subcontract works;
- Because the sub-contracting policy is not legislation, full compliance by some main-contractors has been a challenge;
- The number of Subcontractors earmarked for subcontracting is too high to be absorbed by the limited number of running projects.
- Small-scale contractors selling off the subcontracts (to main contractors or other subcontractors).
- The Management of subcontractors is a major challenge on projects, this is due to Lack of a Subcontract Manager as Key Personnel on the Construction supervising team of consultants to influence the fulfilment of the Main and Subcontractor obligations.
- Lack of penalties for non-compliance to the policy obligations.
- Political influence; this aspect has a high level of negative influence in the implementation process of the 20% subcontracting policy.
- The RDA has no structured group of sub-contractors whose progress is being monitored for mentorship into other higher NCC grades as a sign of improvement.

#### 4. SCOPE OF THE WORK

The **individual consultancy** assignment shall involve conducting an assessment of the public procurement systems in Zambia and providing sound and practical policy and legal advice on strategies for development of effective and inclusive public procurement systems that responds to all public procurement needs in the country (in respect of or through case study of the 20% subcontracting). The consultant will be required to assess factors that tolerate large enterprises' breach of the policy in the subcontracting of Small and Medium Enterprises (SMEs), local Contractors, Local communities and special groups. The consultant will use different methodologies and phases depending on the nature of respondents and actors involved in the study.

#### 5. SPECIFIC ACTIVITIES

The following activities are envisaged to be carried out to achieve the objectives of the study summarised as;

- a. Conduct desk review studies on the national development plan and priorities, the existing National Public Procurement Policy, other national public policies, Public Procurement Act No. 15 of 2011, country's constitution, laws as well as other regional policies and agreements that have a link with public procurements and to what extent these policies affect public procurement;
- b. Benchmarking the 20% subcontracting policy within the entire procurement systems to establish the linkages and support relationships.
- c. Literature review on international good practices in linking procurement policies to national development priorities and aspirations;
- d. Conducting structured/semi-structured interviews with key government institutions responsible for policy development, endorsement and regulations related to public procurement and the need for having the National Public Procurement Policy such as; The Ministry of Finance, National Development and Planning, Housing and Infrastructure Development, Works and Supply, Communications and Transport, Local Government, Gender, Labour and Social Security, Youth, Sport and Child Development; National Council for Construction, The Association of Consulting Engineers of Zambia, The Engineering Institution of Zambia, Association of Building and Civil Engineering Contractors, Universities/academic institutions, The National Science and Technology Council, The National Medium and Small-Scale Contractors , Road Transport and Safety Agency, Zambia National Service, National Road Fund Agency , Zambia Institute for Policy Analysis and Research, Citizens Economic Empowerment Commission , Lusaka City Council, Zambia Public Procurement Authority, Procurement Supplies Professionals and Technicians, Road Development Agency, Private Sector and other key actors in the sector;
- e. Conducting interviews with the ILO social partners: Zambia Congress of Trade Unions and Zambia Federation of Employers;
- f. Collecting views of Development Partners and other UN Agencies supporting and/or working in the areas of public procurement such as: WB, SIDA, AfDB, IMF, European Union; Irish Aid; JICA, WFP etc.;

- g. Carry out comprehensive assessment on the scope, policy environment, management, legal and regulatory framework that would promote/hinder efficiency and effectiveness of public procurement systems in the country;
- h. Carry out assessment on participation of special groups in public procurement functions and recommend how best these groups should effectively participate;
- i. Come up with concrete recommendations on the scope, policy environment, legal and regulatory framework, management, and guidelines that would promote effective public procurement systems in the country in all actors at various levels (ministries, agencies, regulators and local authorities);
- j. Identify and propose on the potential for the development and approval of the 20% subcontracting policy and its legal and regulatory framework;
- k. Identify and recommend on why public procurement policy is one of the important parts of the national public procurement system, scan its advantage of having it and the disadvantages of operating without it;
- l. Come up with advocacy strategies and capacity development approaches that would facilitate embarking on the development and approval of the 20% subcontracting policy and its legal and regulatory framework;
- m. Establish other forms through which inclusiveness, capacity building and socio-economic development can be achieved through infrastructure development out of the 20% subcontracting policy.
- n. Establishing the challenges Zambia has faced in the initiation, planning and implementation of the 20% subcontracting and accordingly recommending evidence-based steps for improvements.
- o. Come up with concrete plan on embarking on development of the 20% subcontracting policy including formulation of policy committee, capacity development initiatives, policy development task forces, stakeholders consultative workshops, policy reviews, approval stages, regulations etc.; and
- p. Organizing and facilitating a mini-stakeholder workshop with at least 20 expert participants to validate the overall findings of the study.
- q. Publication of results and finding in peer reviewed journals/platforms or conferences.

## 6. ABOUT THE ASSIGNMENT

The Government of the Republic of Zambia through the Zambia Public Procurement Authority (ZPPA) and the Ministry of Finance is committed towards establishing transparent, effective, efficient and sustainable public procurement systems. As part of making the system effective, National policies are developed first as a baseline to the development of Acts and Regulations. However, this was not the case with the Public Procurement Act No. 15. The Act was developed way before the announcement of the 20% subcontracting Presidential Decree and there was no baseline conducted for this decree. This makes it very challenging in terms of aligning the 20% subcontracting policy to the Public Procurement Regulations and to the overarching national socio-economic priorities and aspirations.

Moreover, many people consider that most of the procurement issues were covered in Amendments of Public Procurement Act No. 15 conducted in 2011, which is not the case. A policy sets the grounds for accommodating changes and new practices that occur within the procurement field in line with the wider Government objectives.

The government, however, regards 20% subcontracting very important as this would provide guidance and coordination on all aspects relating to the development of a policy and public procurements in the country and receiving a legal backup from the Public Procurement Act No.15 of 2011.

With this, the government through the Ministry of Housing and Infrastructure Development intends to embark on transforming the 20% subcontracting into a policy and enacting it into law. As such, the Ministry would like to undertake a study on the public procurement situation in the country with the intention to create a baseline for the 20% subcontracting. The study will look at, among others, existing policy environment i.e. effectiveness, efficiency and inclusiveness of public procurement processes and regulations guiding public procurements, as well as the political will to develop an inclusive procurement system in the country. The study will also identify socio-economic targets that can be advanced through public procurement. The motive behind such an intention emanates from the acknowledgement of the significant social benefit that could accrue from the participation of small-scale enterprises, local contractors and communities in the delivery of Public goods, works and services particularly in the infrastructure sector.

Apart from several measures that have been taken to strengthen small scale enterprises, local contractors and community participation in Public Procurement in the country, the development and adoption of the 20% subcontracting policy in the Public Sector will provide for the general direction of this important government initiative that has now become more critical than ever in furtherance of national development. Furthermore, the challenges that have been experienced which are associated with the unwillingness of large enterprises and contractors to subcontract works to the small scale enterprises, local contractors and local communities have reiterated the need to have a clear policy direction in rolling out the 20% subcontracting policy initiative by enacting it into law.

ILO recognises the importance of public procurement policy in driving key national-social objectives and espousing positive change in creating sustainable and inclusive economic development. Under the EIIP component of the project being implemented by the ILO in collaboration with the Government of Zambia, the ILO intends to strengthen public procurement systems, procedures and the legal and regulatory framework at national and local level and support such reforms and adoption to increase the participation of small-scale enterprises, local contractors and local communities particularly in the infrastructure sectors. Part of the Project interventions to strengthen the system is to support the development, implementation, monitoring and evaluation of the 20% subcontracting policy and its legal and regulatory frameworks.

The ILO therefore seeks to recruit an individual consultant (with 1 key support personnel) to conduct an Assessment on the public procurement situation in Zambia in respect of the legal framework for the 20% subcontracting. This assessment will be helpful in informing key government policy makers, decision makers and other actors, on the conducive policy environment for good practices in public procurement that will lead to greater participation of local entrepreneurs including special groups (women, youth and children) in public procurements. The work will create a baseline towards finalizing the development, implementation monitoring and evaluation of the 20% subcontracting policy and its legal and regulatory frameworks.

## **7. DELIVERABLES AND REPORTING**



The Consultant will submit the following reports:

- a) **Inception Report:** with study methodology, Tools, schedule of activities for the assignment, etc.

The inception report shall be submitted within four (04) weeks of commencement of the assignment. It shall contain as a minimum:

- Status of the consultant's mobilization;
- Confirmation of the Study methodology;
- Reporting on all activities included in the sections above;
- A revised implementation programme for the consultancy activities;
- The consultant shall show the internal quality assurance systems and plans that will ensure both completeness and the quality of the assignment.

The Consultant is expected to make a Power Point Presentation to ILO & RDA upon submission of the Inception Report. The Client will issue comments on the Inception report within ten (10) working days of receipt, during which time the Consultant shall proceed with the other activities not concerned with the inception report.

- b) **A draft Report:** outlining the detailed findings

The Consultant shall submit the Draft final Report for the study within nine (9) weeks of commencement of the Study detailing all work performed inclusive of the findings and recommendations. Based on comments received from the RDA & ILO, the final report should be submitted within a month of receiving comments. The Draft Final Report will be discussed at a workshop with Stakeholders to be organized by the consultant in liaison with ILO & the RDA. Ten (10) hard copies and an electronic copy of the Report are to be submitted to RDA through ILO.

- c) **Final report:** with detailed recommendations as per specific activities in

section 5 above.

A Final Report, containing the original recommendations and a response to all relevant comments from Stakeholders to be submitted within 14 weeks of commencement based on comments received from the relevant stakeholders, ILO and the RDA. The final report should be submitted within a month of receiving comments.

The report will furnish a full description of all works carried out as described in the ToRs. All assumptions made in the course of the development will be identified.

Ten (10) copies of the Final report and an electronic copy are to be submitted to RDA through ILO.

Copies of the final report are to be sent to all stakeholders within the time specified.

## **8. ORGANIZATION OF THE ASSIGNMENT**

The consultants will report to the ILO Country Director for Zambia, Malawi and Mozambique through the National Project Coordinator, Mr. Brian Chipili, [chipili@ilo.org](mailto:chipili@ilo.org) and technical responsibility being under the ILO's Pro Employment Investment Programme Specialist Eng. Asfaw Kidanu, [kidanu@ilo.org](mailto:kidanu@ilo.org) based in Pretoria, South Africa. The work will be approved by the Ministry of Housing and Infrastructure Development through the Road Development Agency (being the implementing organisation for the 20% subcontracting for highways in Zambia) in consultation with the Ministry of Finance through the Public Procurement Policy Division.

The location of the assignment is in Lusaka, Zambia with travels to other selected areas if need be. The ILO will facilitate the consultants to access all the necessary information for the study. The consultant is, however, expected to collect and use relevant data/information and literature from other sources to draw informed conclusions and recommendations.

Interested individual consultants may obtain further information through the National Project Coordinator, Mr. Brian Chipili at Email address: [chipili@ilo.org](mailto:chipili@ilo.org).

## 9. IMPLEMENTATION PLAN OF THE ASSIGNMENT AND MAN DAYS

The duration of the consultancy is an estimated 70 person-days, which includes travel to other selected areas if need arises, preparation and conducting interviews, collection of data and preparation of a comprehensive report in accordance with the packaging below;

a) Desk review, development and submission of <b>INCEPTION REPORT</b> :	20 person-days	20% of Contract Sum
b) In-depth structured/semi-structured interviews with experts from government ministries, partners and stakeholders: <b>PRELIMINARY/PROGRESS REPORT</b>	25 person-days	40% of Contract Sum
c) Report Writing and submission of draft & final report, validation and dissemination: <b>FINAL RESEARCH PROGRESS REPORT</b>	25 person-days	40% of Contract Sum
<b>Total</b>	<b>70 person-days</b>	

Note that the above are an indicative time usage and the consultant team is at liberty to organize its work as it sees fit within the overall time allocation.

## 10. OTHER PAYMENT TERMS

The **consultant's** payments will be comprised of:

- i. **Fee:** Payment to cover for the services provided to carry out this assignment as per the ToRs. The payment of the fees will be as summarised in section 9 tied to the deliverables listed.
- ii. **Daily Subsistence Allowance (DSA):** To cover the consultant's daily expenses in case of travel outside Lusaka during his/her initial data collection. DSA

shall be paid at a standard Zambian Government rates and will be paid upon signing of the contract.

- iii. **Local travel:** ILO shall be responsible to make International and local travel arrangements as per ILO standards. RDA and other key personnel from ILO may be involved in such travels for familiarity and validation of the processes.

## 11. INVITATION TO POTENTIAL INDIVIDUAL CONSULTANTS

The international labour organization (ILO) now invites eligible **individual consultants** to indicate their interest in providing these services. Interested Individual Consultants must provide information indicating that they are qualified to perform the services (Curriculum Vitae providing qualifications, descriptions of similar assignments, experience in similar conditions, and demonstration of appropriate skills).

Interested **individual consultants** are requested to submit a technical and financial proposal covering the following format:

- a. A letter of interest stating eligibility for the assignment;
- b. Proposal of not more than seven (7) pages using the following format;
  - i. Introduction
  - ii. Statement of the task
  - iii. Outline of research methodology and instruments
  - iv. Stakeholders to be consulted
  - v. Proposed work plan
- c. Financial proposal indicative of all-inclusive costs for the assignment, including professional fees
- d. CV of the Main individual consultant to undertake the assignment including a summary of similar assignments undertaken previously and at least 3 references of previous mandate. Two CVs are permissible for this assignment for the key consultants to undertake the assignment; please indicate the division of labour and the appropriate CV of the other individual professional under the charge of the main individual consultant.

- **Experience and Qualifications:** Experts (2No.) with minimum of a Masters' degree in or related to infrastructure development with no less than 10 years' experience in planning, public procurement, M&E, public/institutional policy and supervision of infrastructure projects (Any higher qualifications in a relevant field will be an added advantage). He/she should also have proven experience in initiation, planning and management including development of various policy documents such as strategies and implementation action plans. Works experience in sub-Saharan Africa and Zambia will be an added advantage. Knowledge of government and development partner procedures including an understanding of internationally recognised conditions of contracts are also a requirement. The experts must be registered with appropriate professional bodies such as the Engineering Institution of Zambia (EIZ) and registered to practice by an appropriate body such as the Engineering Registration Board (Eng.R.B) or similar professional bodies. He/she shall have a good command of the English language.

He/She shall have relevant experience including a working knowledge of the disciplines involved in such studies as well as experience in managing project design for similar assignments, especially small-scale and labour-based or labour-intensive projects.

The ILO hereby welcomes applications from individual consultants. The required qualifications and experiences requires two consultants to submit joint proposals through the MAIN INDIVIDUAL CONSULTANT. Submit your proposal by email to: [lusaka@ilo.org](mailto:lusaka@ilo.org) addressed to the Director, ILO Country Office for Zambia, Malawi and Mozambique, Lusaka by **March 15, 2020**.

Expressions of interest must be transmitted to the above by March 17, 2020 17:00hrs and shall mention "**Individual Consultancy Services for Research into the Evaluation of the 20% Subcontracting Policy in Respect of Procurement and The Legal Framework in the Zambian Construction Industry**".