

# NIGERIA ELECTRICITY REGULATORY COMMISSION

## REGULATION ON NATIONAL CONTENT



The Nigerian Federal Government has recently announced its intention to enforce the provisions of the Nigeria Electricity Regulation Commission Regulation on National Content Development for the Nigerian Electricity Supply Industry "NESI" 2013 "the Regulation" and the Guidelines on National Content Development for the NESI (2013) "the Guidelines". We identify some key provisions of the Regulation below.

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### HUMAN AND MATERIAL RESOURCES

- The licensees are required under Regulation 5 to give first consideration to qualified Nigerian operators, for all works, goods and services and resort can only be made to importation of such if there is an unavailability of the required which is subject to the approval of the commission (R. 9).
- For employment opportunities the licensees are required to give first consideration to Nigerians and upon a dearth of expertise foreigners can be employed. Also the junior and intermediate cadre/level of a company involved must be comprised only of Nigerians and upon the approval of the commission only 5% of the managerial positions can be reserved for expatriate. (R. 10)
- As regards technology, Parent licensee companies working through their subsidiaries in Nigeria must show that 51% of the equipment used for the execution of the project are owned by the Nigerian companies. The licensee shall ensure transfer of technology to Nigerians by facilitating same. (R 14)
- Insurance and reinsurance endeavours are to be carried out by Nigerian Insurance Companies and if need be for an offshore insurance company, the consent of the Commission is to be sought. (R.17)
- Legal services are to be provided by legal practitioners entitled to practice in Nigeria, and foreign legal practitioners can only be resorted to upon a recommendation and partnering with indigenous legal practitioners (R. 18)
- Financial and capital market services are to be provided by Nigerian registered companies. Foreign services can only be used if they are recommended and partnered by an indigenous financial and capital market provider. (R. 19)

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## **ESTABLISHMENT OF INDUSTRY DATABANK**

Regulation 4(b) requires the Commission to establish and operate a joint qualification system in consultation with industry stakeholders which shall be an industry databank for available capabilities. This is to ensure required expertise are readily available and measure up to the desired qualification.

## **FILINGS TO ENSURE COMPLIANCE**

- A list of contracts, sub contracts and purchasing order exceeding ₦15,000,000 (Fifteen Million Naira) or such limit as may be determined by the Commission awarded during the year within 30 days of the end of first half of each financial year ( R.9b)
- Employment and training plan for the next financial year at the end of each financial year.( R 11)
- Annual Nigerian content performance report within 60 days of the end of each financial year (R.6b and R.20)
- Annual technology transfer report. ( R.12 and 16)
- A list of all insurance companies or brokers made use of for the year and the expenditure involved at the end of each financial year, (R 17d).
- Legal services plan every six months (the Guidelines)
- Financial services plan annually (the Guidelines)
- Insurance and re-insurance programme details annually(the Guidelines)

## **PENALTY FOR NON-COMPLIANCE**

- Regulation 27 empowers the Commission to charge a penalty for breach.

## **REWARD FOR COMPLIANCE**

- Regulation 15 permits the Commission to consult and make recommendation to the appropriate authorities to grant tax incentives for companies that establish infrastructures for the purpose of improving Nigerian Content.

In conclusion, the Regulation requires the management of all licensees of the NESI to have as its foremost objective the development of the Nigerian content as the basis of the execution of any project. This is in furtherance of its objective that companies that benefit from the NESI improve the Nigeria content thereby contributing to the economic development of Nigeria.

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