

- c. Refusal to sign a contract or to furnish performance security in accordance with the terms of the solicitation document and bid, if required to do so; or
- d. Failure to comply with a bid securing declaration.

A suspension shall be for a minimum period of one (01) year and a maximum period of five (05) years.

A bidder/supplier shall be permanently barred from participating in procurement on any of the following grounds:

- a. Misconduct relating to the submission of bids, including corrupt, fraudulent, collusive or coercive practices, price fixing, a pattern of under – pricing of bids and breach of confidentiality;
- b. Substantial non-performance or under-performance of contractual obligations;
- c. Conviction of a criminal offence relating to obtaining or attempting to obtain a contract or subcontract; or
- d. Conviction of a crime related to business or professional activities.

Section 68 provides that “a procuring entity shall reject a bid, proposal, offer or quotation of a bidder or supplier if the bidder or supplier offers, gives, or agrees to give, directly or indirectly an inducement or anything of value to a public officer to influence an act, decision or proceeding of a procuring entity.”

Section 69 provides that “a bidder or supplier aggrieved by a decision of the Authority to suspend the bidder or supplier from participating in public procurement or over any other matter under the PPA shall submit the matter to arbitration.”

The Authority may organise and maintain a system, in the form of a database or list, to provide centralised information on potential suppliers of goods.

[PPA Section 64(1)]



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HIGHLIGHTS OF THE PUBLIC PROCUREMENT

**ACT NO. 12
OF 2008**

ENACTMENT

The Public Procurement Act (PPA) No. 12 of 2008 was enacted on 26th September, 2008 by the Parliament of Zambia and became operational on 8th December, 2008.

SOME HIGHLIGHTS OF THE ACT

International Agreements

Section 4 of the Public Procurement Act provides that before entering into any international agreement relating to procurement, a procuring entity is required to obtain approval from the Authority (ZPPA) and the advice of the Attorney General.

Regulatory and oversight functions strengthened

Section 6 (1) and (2) of the PPA provides that ZPPA shall not participate in the procurement of goods, works or services but will play the role of a regulatory body in public procurement.

Members of the Procurement Committee

Section 16 (3) provides for the appointment of not more than two (02) outside members to the Procurement Committee who shall not be public officers or employees of any parastatal body.

Section 16 (4) also provides that members of the Procurement Committee shall be appointed with regard to their:

- a. Technical and professional competence;
- b. Procurement skills and knowledge required for the discharge of the functions of the Procurement Committee; and
- c. Proven integrity and sound decision making abilities.

Section 16 (5) further provides that a Controlling Officer or Chief Executive Officer shall, in selecting the members of a Procurement Committee, seek to establish a balance of skills and experience among the members to ensure that the Procurement Committee:

“Section 42(2) of the PPAs obliges PEs to prepare Procurement Plans. As part of its regulatory function the Authority will offer relevant advice to the PE’s on the submitted plans.”

1. Has an appropriate level of seniority and experience in decision making.
2. Includes knowledge and experience in public procurement and other relevant professional disciplines; and
3. Includes persons with knowledge and experience of the procuring entity’s operations.

Establishment of Sub-Procurement Committees

Section 19 provides that a Procurement Committee may establish a Sub-Committee with delegated level of authority to provide procurement authorisation for a sub-division of the procuring entity, where the sub-division’s procurement would be more effectively managed by a sub-committee.

Provision of new procurement methods.

Sections 33, 34, 35 and 36 further provides for four (04) new procurement methods namely; Force Account, Purchases from other procuring entities, Procurement of Infrastructure for Private Financing and Award of Concessions and Community Participation.

Procurement Planning

Section 42 provides that a procuring entity is required to annually plan its procurement in a rational manner and submit such plans to ZPPA.

Record Keeping

Section 38 provides that a Procuring Entity is required to maintain records of all procuring proceedings for a period of seven (07) years.

Publication of Best Evaluated Bidder

Section 53 provides that a Procuring Entity shall, within seven (07) days of awarding a contract, prepare a notice indicating the best evaluated bidder and the value of the proposed contract, and send the notice to all bidders who submitted bids. No award shall be made within 10 days from the date of notification.

Information to Unsuccessful Bidders

Section 56 provides that a Procuring Entity shall, after the commencement of a contract with the successful bidder, inform all other bidders that their bids were not successful and shall give reasons for the decisions.

Contract Manager

Section 57 provides that a Procuring Entity shall appoint a Contract Manager for every contract awarded.

Amendment of a Contract

Section 58 provides that Amendments to a contract shall require prior authorisation of the appropriate approvals authority and the Attorney General.

Preference and Reservation Schemes

Section 63 provides that a margin of preference may be granted for bids by a target group or goods provided from Zambia or a particular region. Certain procurements may be reserved for a target group. Target groups include enterprises owned by women, citizens or local bidders and small-sized enterprises.

Suspension of Bidders, Grounds for suspension and permanent barring of Bidders or Suppliers.

Sections 65, 66 and 67 provides for suspension and permanent bar of bidders from participating in public procurements. The grounds for suspension of bidders/suppliers are as follows:

- a. Providing false information in a bid or any other document submitted to a procuring entity in connection with a procurement process or contract;
- b. Connivance to interfere with the participation of other bidders;