

# REGULATION ON NATIONAL CONTENT DEVELOPMENT FOR THE POWER SECTOR, 2014

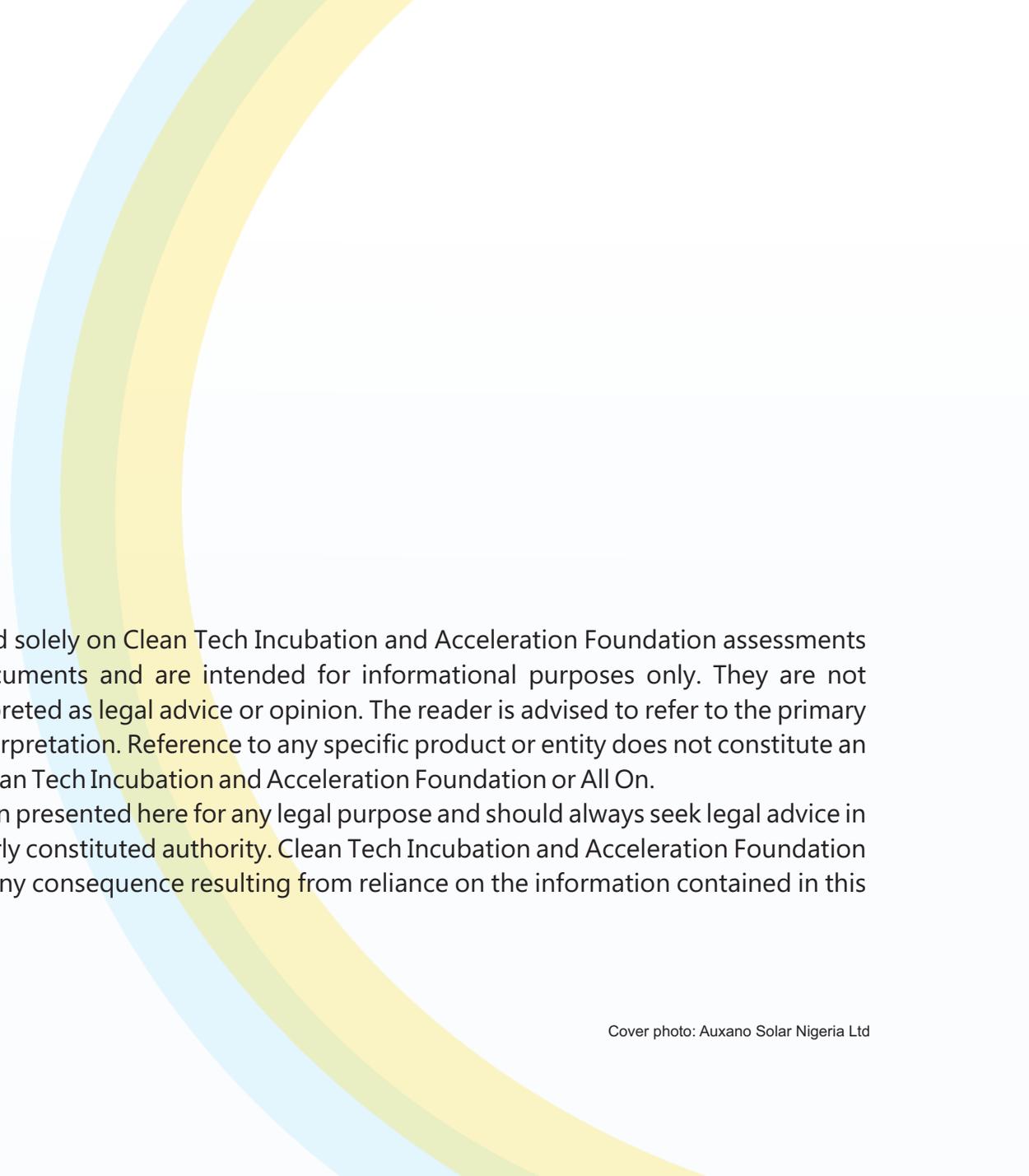
Minimum Specification of Nigerian Content and  
Requirement for Labour in the Nigerian Power Sector

Nigerian Electricity Regulatory Commission

Simplified Summary

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## EXECUTIVE SUMMARY



The Regulation on National Content Development for the Power Sector aims to promote the deliberate utilization of local human workforce and material resources across the value chain of the Nigerian Electricity Supply Industry (NESI).

This Guide provides a simplified summary of the regulation primarily for off-grid energy stakeholders. It provides a context to the regulation, legal foundation, objectives, incentives, key provisions, strategy, stakeholders, implementation status, and related policy and regulatory documents.

### 8 Components of the Regulation

General Provisions	Nigerian Content and Project Execution	Nigerian Content & Employment	Acquisition of Technology
Professional Services	NESI Nigerian Content Consultative Forum	Reporting, Compliance and Enforcement	Miscellaneous provisions

## CONTEXT

The reform program in the Nigerian electricity sector has seen an influx of foreign direct investment and in turn the creation of new opportunities for the provision of goods and services to the sector. It is to this end that the Nigerian Electricity Regulatory Commission (NERC) issued this Regulation to ensure that indigenous companies also develop capacity to benefit from this expanding sector.

The Regulation puts in place the legal and operational framework for the development of local content in the Nigeria Electricity Supply Industry (NESI), and makes it mandatory that first consideration is given to the use of Nigerian goods and services in the NESI.

More importantly, it seeks to encourage Nigerian content in all projects, operations, activities and transactions in the NESI by utilising Nigerian human and material resources, goods, works and services.

This regulation consists of eight parts: General Provisions; Nigerian Content and Project Execution; Nigerian Content and Employment; Acquisition of Technology; Professional Services; NESI Nigerian Content Consultative Forum; Reporting, Compliance and Enforcement; and Miscellaneous provisions. The regulation applies to all licensees of the Commission.

## LEGAL FOUNDATION



The legal foundation of this regulation is based on the powers conferred on NERC by the Electric Power Sector reform Act (EPSRA) 2005 to make regulations in the power sector under Section 32 (1) and 96. It is legally binding to all stakeholders across the value chain of the Nigerian Electricity Supply Industry.

## OBJECTIVES

1

Deliberate use of Nigerian human and material resources, goods and services in the NESI.

2

Opening the NESI at all levels to involve Nigerian people and experts.

3

Building capabilities in the country to support increased investment into the NESI.

4

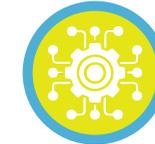
Leveraging existing and future investment in the NESI to stimulate the growth of Nigerian and Nigeria-located enterprise.

## MINIMUM SPECIFICATION OF NIGERIAN CONTENT

### Power Generation



Electrical/  
mechanical



Automation  
(installation, service  
works, integration)

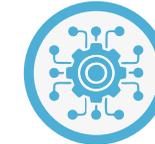


Civil  
works

### Power Transmission



Electrical/  
mechanical  
(materials and  
equipment)



Automation  
(installation, service  
works, integration)



Civil  
works

### Power Distribution



Automation  
(installation, service  
works, integration)



Civil  
works

# MINIMUM SPECIFICATION OF NIGERIAN CONTENT (Cont'd)

## Requirement for Labour



- 1 Design Engineering
- 2 Information systems, technology & communication
- 3 Health, safety and environment and services
- 4 Operation & maintenance services
- 5 Financial services
- 6 Technical consultancy services
- 7 Administrative services

## INCENTIVES

Recommendation by NERC to relevant arms of Government on appropriate fiscal framework and tax incentives for companies who establish facilities, factories, production units or other operations in Nigeria.



# KEY PROVISIONS

## Employment



Licensee in respect to management positions must ensure that not more than 5% or any percentage as may be approved by NERC from time to time is retained by expatriates.

All operators and companies in the NESI shall employ only Nigerians in their junior and intermediate cadre or any other corresponding grades designated by the operator or company. All unskilled labour shall be locally sourced.

Maintenance of an employment and training plan by licensee for each financial year to be submitted to the Commission upon request.

The application for employment for an expatriate shall be in the form prescribed by NERC with appropriate justification showing that no suitably qualified Nigerian has been found for the position.

## Contracts (Goods/Services)



All licensees shall give first consideration for goods made in Nigeria and services provided by Nigerian firms in award of contracts.

All licensees shall prepare and submit a Nigerian content plan for projects whose total budget exceed the threshold set by NERC for Nigerian content based on the advice of the NESI Nigerian Content Consultative Forum.

Engineering, financial and capital market and legal services shall be rendered by Nigerian engineering companies registered with relevant regulatory authorities. Foreign engineering consultants/firms may only be engaged when the required services are rendered in collaboration with firms licensed to provide such services in Nigeria.

All operators and project promoters shall consider Nigerian content when evaluating any bid at commercial stage and the bid containing the highest level of Nigerian content shall be selected upon meeting the other relevant technical and financial criteria.

## Contracts (Goods/Services) cont'd

Where there is inadequate local capacity for any contracts to be undertaken, NERC may grant an approval for waiver provided such an approval shall not continue for longer than three years from the time of approval.



The criteria for a waiver from NERC includes:

- Where the items or capacity cannot be sourced locally
- Where the total budget for the projects exceeds the threshold for Nigerian content.

Where the losses to be incurred by licensee by sourcing locally will not be prudent and will lead to an increased cost of doing business.

Where there is a reasonable need for a company to engage an off-shore insurance firm, prior consent from NERC must be sought. Application for consent to engage an off-shore insurance firm shall be in the format specified by the Commission, and include clearance by the National Insurance Commission.

The maintenance of an Annual Nigeria Content Performance Report covering all their projects and activities in the previous fiscal year by all licensees to be reviewed by the Commission, who will issue relevant directives as appropriate.

## Technology Transfer & Capacity Building

Maintenance of a Technology Transfer Plan by Licensee. The Technology Transfer Plan shall contain details of various technologies deployed by the operator and the proposed modalities for transfer to Nigerians.

Give full and effective support to technology acquisition by encouraging and facilitating the formation of joint ventures, partnering and the development of licensing agreements between

Nigerian and foreign contractors. These agreements shall meet the requirements of Nigerian content development.

The employment and training plan shall make provision for succession planning to enable Nigerians assumes positions that are currently occupied by expatriates. The training plan shall take into cognizance the full involvement of Nigerians in any research and development activity undertaken by the company.



## Technology Transfer & Capacity Building (Cont'd)



Where a Nigerian is not allowed progress within the organizational structure of a licensee because of their lack of capacity in a particular area, the licensee shall prove to the satisfaction of the commission, that their employment and training plan provides for such trainings and efforts that have been made to train the employee.

The establishment, maintenance and administering of a Joint Qualification Systems (JQS) which shall constitute an industry databank with available capabilities and serve as:

- The only system for Nigerian content registration and pre-qualification of contractors in the NESI.
- A source for the verification of contractors' capacity and capabilities.
- Source for information in the review of applications of Nigerian content.
- Data bank for a national skills development pool, and for the ranking and categorization of all service companies on capabilities and local content.

## IMPLEMENTATION STRATEGY

### Nigerian Electricity Regulatory Commission

Publish annual reports with information on compliance with this regulation, including sufficient details on any enforcement action taken by the Commission and reports of complaints.

- In monitoring and enforcing these Regulations to strictly adhere to the provisions of the EPSR Act, the Commission's Regulations, Orders and the License Terms and Conditions of the Licensee.
- In the exercise of its enforcement powers in line with this Regulations and the EPSR Act, institute civil proceedings in court against any person to enforce compliance.

- The provisions of this Regulation does not limit or affect the inherent powers of NERC to make orders as may be necessary in furtherance of this Regulation objectives.
- Proceedings under this regulation shall be governed by the Business Rules of NERC as may be amended from time to time.
- May amend or repeal, in whole or in part, the provisions of these Regulations.

Establishment of an **NESI Nigerian Content Consultative Forum (NNCCF)** to,

- Develop the Schedules of the Regulations not later than three weeks after the Forum's inauguration. The Schedules is to include: Minimum specification of Nigerian content; and requirement for labour.
- Be composed of both operators and other industry stakeholders and representatives from: fabrication; engineering; finance services, legal and insurance; information and communication technology; education and training; and any other professional service determined by the Commission from time to time.
- Have a Forum Chairperson (selected amongst the Forum members) and the Secretary (Commission staff) designated by NERC.
- Carry out a survey periodically to determine the national content participation in the power sector; advise NERC on the benchmark to set as threshold for national content in the power sector based on the survey, as well as serve as an advisory body to NERC on matters relating to availability of local capabilities and other policy proposals.
- Meetings of the Forum shall be held quarterly and whenever necessary at the Commission or any other venue determined by the Commission.
- Membership of the Forum shall be for a tenure of three years with an option for renewal for one term only.



## KEY INDUSTRY STAKEHOLDERS

**Electricity Generation  
Companies and  
Independent Power  
Producers**

**Electricity Distribution  
Companies and  
Independent Electricity  
Distribution Networks  
IEDN**

**All Power Sector  
Contractors and private  
sector companies  
operating in the  
Nigerian Power Sector**

**All licensees of NERC**

## RELATED REGULATORY & POLICY DOCUMENTS

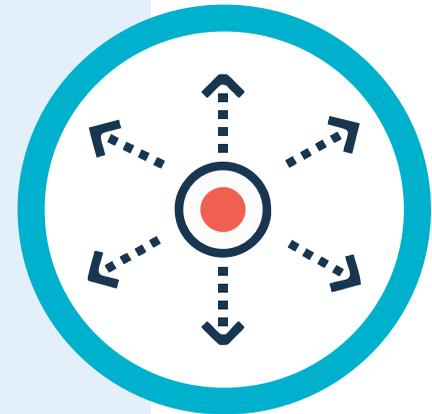
Electric Power Sector Reform  
Act (2005)

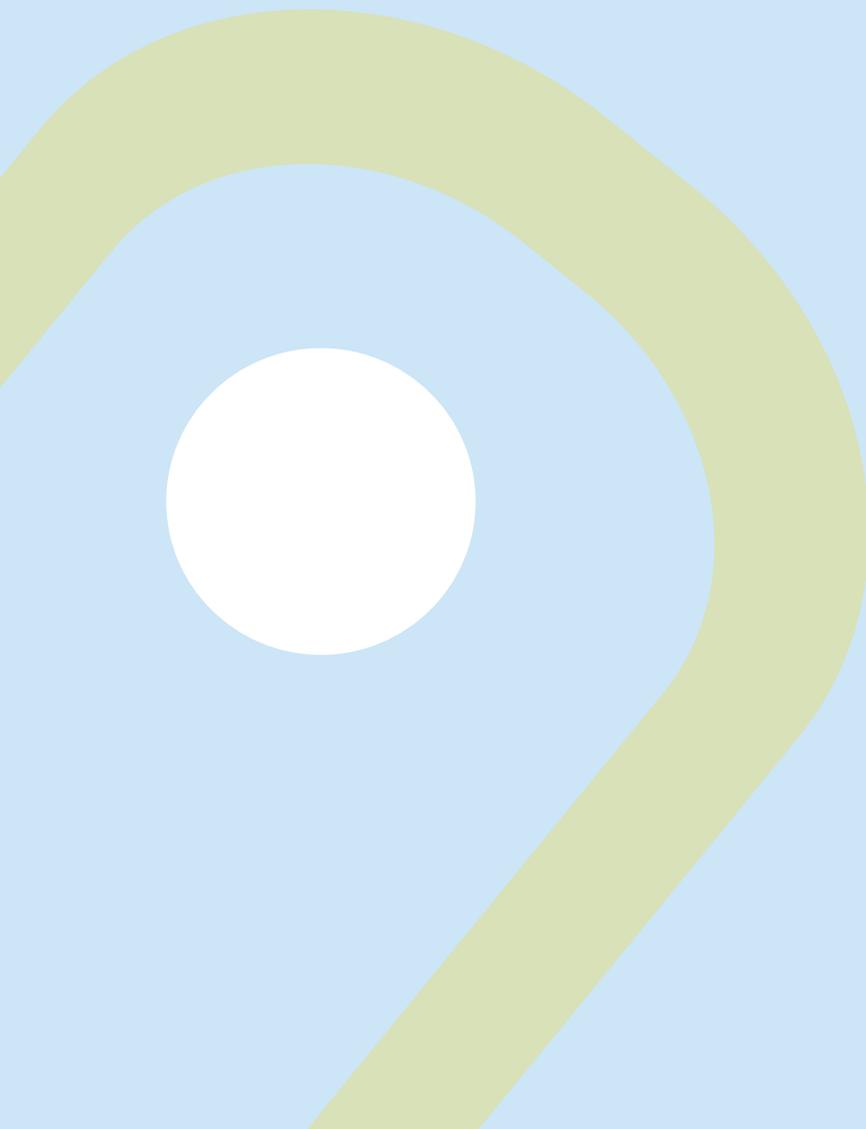
National Electric Power Policy  
(NEPP) (2001)

FGN Executive Order 5 (2018)

## IMPLEMENTATION STATUS SPECIFIC TO OFF-GRID ENERGY

- The NESI Nigerian Content Consultative Forum has been active since 2015.
- Between 2015-2018, the Forum developed the schedule which was broken down into three sub-sectors: generation, transmission, distribution and requirement of labour.
- The members of the forum have a term of three years. The first Consultative Forum ran from 2015 -2018. The second Consultative Forum will be inaugurated in October 2019.
- Once the second Consultative Forum is fully on boarded, they will begin to prepare a Joint Qualification System (JQS) as well as a timeline for the implementation of the regulation.





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