

Abu Dhabi Value (ADV) – The Abu Dhabi Department of Economic Development's New Localisation Rules

LEGAL BRIEFING (24 April 2019)

Similar to Abu Dhabi National Oil Company's (ADNOC) "In-Country Value" (ICV) program, the Abu Dhabi Department of Economic Development (ADDED) has soft-launched its own localisation program: Abu Dhabi Value or "ADV". This procurement-led initiative aims at localising suppliers and developing UAE Nationals (Emiratisation). Suppliers engaging in business with ADDED will need to familiarise themselves with the ADV program. This legal briefing gives an overview of ADV and its modus operandi.

1. What is Abu Dhabi Value

Abu Dhabi Value (ADV) is a procurement-driven localisation program that was soft-launched on 21 April 2019 and is expected to be implemented shortly by the Abu Dhabi Department of Economic Development (ADDED). Similar to other localisation programs, ADV focuses on:

- Boosting growth and diversification of Abu Dhabi's economy; and
- Creating employment opportunities for Emirati nationals in the private sector (Emiratisation).

2. Who will be affected by the program?

ADV will affect any party wishing to directly (or indirectly) engage with ADDED. Suppliers will be asked to submit an ADV Certificate along with their bid. Based on this, it is imperative that suppliers of goods and services make themselves familiar with this new procurement-driven initiative.

3. Why now and why not build on ADNOC's ICV?

ADV was soft-launched one year after Abu Dhabi National Oil Company's (ADNOC) In-

Country Value program (ICV). While ADV is structurally very similar to ADNOC's ICV program, the core difference is that ADV focuses on localisation measures in Abu Dhabi (and not in the entire United Arab Emirates).

4. How does it work?

Engaging in business with ADDED will require carrying out:

- (i) self-assessment in accordance with ADDED's provided material (e.g. excel sheet);
- (ii) certification of such self-assessment by an accredited certifying body (ADV Certificate); and
- (iii) drawing up an ADV Improvement Plan (if contracting directly with ADDED).

From the information available, the ADV score as shown in the ADV Certificate is calculated based on a formula that differentiates between:

- the supplier type: (a) goods manufacturers and (b) service providers (respectively 50%); and

- company related aspects: (a) local investment (25%); (b) Emiratisation of workforce (15%); (c) expatriate contribution (10%).

Within the procurement process, it is expected that ADV is mainly relevant during the evaluation phase. Bidders having passed the technical evaluation will be ranked in accordance with:

- (i) best price; and
- (ii) best ADV score.

It is expected that the ADV score will be calculated by combining the ADV Certificate and the ADV Improvement Plan (also referred to as “combined” or “overall score”). It is expected that the ADV Improvement Plan will be weighed higher than the ACV Certificate (e.g. 60% ADV Improvement Plan and 40% ADV Certificate) to stress the importance of the supplier’s future localisation commitments.

As in ADNOC’s ICV, the bidder with the best ADV overall score will be given the chance to match the best commercial offer. Should the bidder with the best ADV score not be able to match this price, the bidder with the second best ADV score would be asked to match the price, and so forth.

Similar to ADNOC’s ICV, the ADV Improvement Plan will become part of the awarded agreement. Therefore, non-compliance with the ADV Improvement Plan results in:

- (i) termination for cause (for breach of a material contract provision); and
- (ii) retention of payments (milestone payment plan).

5. Conclusion

While it remains to be seen how ADDED’s final localisation rules will look like and at what speed they will be enforced, it is safe to say that ADV will add more complexity in doing business with ADDED. Investors engaging in business with ADDED will need to monitor the developments on ADV closely and keep in mind following aspects after its full-launch:

- Suppliers will need to obtain an ADV Certificate (for the ADV score to be counted);
- Suppliers will need to come up with an ADV Improvement Plan; and
- Non-compliance with improvement targets may result in the termination of the supply agreement and/or retention of payments.

Regardless of the above, it should be noted that ADV is the second localisation program in the United Arab Emirates. Suppliers should closely monitor respective developments with regard to other governmental bodies.

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