

PETROLEUM (LOCAL CONTENT AND LOCAL PARTICIPATION) REGULATIONS, 2013 (L.I. 2204)

ARRANGEMENT OF REGULATIONS

Regulation

General Provisions

1. Purpose of Regulations
2. Application of Regulations
3. Local content requirement
4. Interest of a citizen in petroleum operations
5. Functions of Local Content Committee

6. Establishment of local office

Local content plan

7. Submission of local content plans for approval
8. Review of local content plan
9. Content of the local content plan
10. Minimum local content levels
11. Preference to indigenous Ghanaian Companies
12. Basis of bid evaluation
13. Submission of proposed contracts to the Commission
14. Submission of quarterly forecasts
15. Documents required for submission to the Commission during bidding process
16. Review of contract

Employment and Training Sub-Plan and Succession Plan

17. Employment and Training Sub-Plan
18. Succession plan
19. Middle and junior level positions

Programme for Research and Research Development Sub-Plan

20. Programme for research, development and budget

21. Research and Development Sub-Plan

Technology transfer programmes and reports

22. National plan on technology transfer

23. Technology transfer programme

24. Technology Transfer Sub-Plan

25. Support for technology transfer to indigenous Ghanaian companies

26. Technology Transfer Report

Local Insurance services content

27. Insurance and reinsurance

28. Approval of offshore insurance

Legal services content

29. Legal services

30. Legal Services Sub-Plan

Financial services content

31. Financial services

32. Financial Services Sub-Plan

33. Operation of bank account in Ghana

Local content performance reporting

34. Requirement for submitting local content performance report

35. Assessment of performance report

36. Requirement for third party reporting

Data and information on local content

37. Establishment of a Common Qualification System

38. Object of the Common Qualification System

39. Availability of information

- 40. Public education
- 41. Communication of local content policies
- Monitoring, compliance and enforcement
- 42. Electronic filing of documents
- 43. Establishment of guidelines and procedures by Commission
- 44. Local content monitoring
- 45. Investigations
- 46. Offences and penalties
- Miscellaneous provisions
- 47 Complaints to Minister
- 48. Transitional provisions
- 49 Interpretations

IN exercise of the power conferred on the Minister responsible for Energy by section 22 of the Petroleum Commission Act, 2011 (Act 821), these Regulations are made this 5th day of July, 2013.

General Provisions

Purpose of Regulations

1. The purpose of these Regulations is to
 - (a) promote the maximisation of value-addition and job creation through the use of local expertise, goods and services, businesses and financing in the petroleum industry value chain and their retention in the country;
 - (b) develop local capacities in the petroleum industry value chain through education, skills transfer and expertise development, transfer of technology and know-how and active research and development programmes;
 - (c) achieve the minimum local employment level and in-country spend for the provision of the goods and services in the petroleum industry value chain as

specified in the First Schedule;

(d) increase the capability and international competitiveness of domestic businesses;

(e) create petroleum and related supportive industries that will sustain economic development;

(f) achieve and maintain a degree of control for Ghanaians over development initiatives for local stakeholders;

(g) provide for a robust and transparent monitoring and reporting system to ensure delivery of local content policy objectives;

(h) provide for the submission of the local content plan and related sub-plans by contractors, subcontractors, licensees and any other allied entity involved in the petroleum industry including

(i) the provision of goods and services;

(ii) the transfer to the Corporation or the Commission and Ghanaians of advanced technology and skills related to petroleum activities;

(iii) a recruitment and training programme; and

(i) supervision, coordination, implementation and monitoring of local content.

Application of Regulations

2. These Regulations apply to local content with respect to petroleum activities.

Local content requirement

3. A contractor, subcontractor, licensee, the Corporation or other allied entity carrying out a

petroleum activity shall ensure that local content is a component of the petroleum activities

engaged in by that contractor, subcontractor, and licensee, the Corporation or other allied entity.

Interest of a citizen in petroleum operations

4. (1) An indigenous Ghanaian company shall be given first preference in the grant of a

petroleum agreement or a licence with respect to petroleum activities subject to the fulfillment of

the conditions specified in these Regulations.

(2) There shall be at least a five percent equity participation of an indigenous Ghanaian company other than the Corporation to be qualified to enter into a petroleum agreement or a petroleum licence.

(3) Despite subregulation (2), the Minister may vary the requirement specified in that subregulation, in circumstances where an indigenous Ghanaian company is unable to satisfy the requirement of the five percent equity participation.

(4) For the purposes of subregulation (2), the Minister shall determine the persons qualified.

(5) The interest of an indigenous Ghanaian company arising from a petroleum agreement or a petroleum licence is not transferable to a non-indigenous Ghanaian company.

(6) A non-indigenous Ghanaian company which intends to provide goods or services to a contractor, a subcontractor, licensee, the Corporation or other allied entity within the country

shall incorporate a joint venture company with an indigenous Ghanaian company and afford that

indigenous Ghanaian company an equity participation of at least ten percent.

(7) A contractor, subcontractor, licensee or other allied entity shall before the commencement of petroleum activities submit a plan to the Commission specifying

(a) the role and responsibilities of the indigenous Ghanaian company;

(b) the equity participation of the indigenous Ghanaian company; and

(c) the strategy for the transfer of technology and know-how to the indigenous Ghanaian company.

Functions of Local Content Committee

5. (1) The Local Content Committee established by the Commission under subsection (2) of

section 8 of the Act shall oversee the implementation of these Regulations.

(2) The Committee shall in implementing the provisions of these Regulations, ensure measurable and continuous growth in local content in all petroleum activities.

(3) Without limiting subregulations (1) and (2), the Committee shall

(a) oversee, coordinate, and manage the development of local content;

(b) prepare guidelines, to include targets and formats for local content plans and reporting;

(c) make appropriate recommendations to the Commission for the smooth implementation of these Regulations;

(d) set minimum standard requirements for local content in local content plans where applicable;

(e) undertake public education;

(Undertake local content monitoring and audit; and

(g) Perform any other functions conferred on the Committee

by the Commission in accordance with the provisions of applicable laws.

(4) The Committee shall submit quarterly reports of its activities to the Commission

Establishment of local office

6. Where practicable, before carrying out any work or activity in the petroleum industry a contractor, subcontractor, licensee or other allied entity shall establish a project office within

the district where the project is located.

Local content plan

1& Submission of local content plans for approval

7. (1) A contractor, subcontractor, licensee or other allied entity shall before engaging in a petroleum activity prepare and submit a local content plan for approval at the time of submission to the Commission of an application to undertake a petroleum activity.

(2) For the purposes of subregulation (1), a contractor, subcontractor, licensee, or other allied entity shall submit to the Commission

(a) a long-term local content plan which corresponds with the work programme that accompanies the application made by the contractor, subcontractor, licensee, or other allied entity to undertake petroleum activities as specified in these Regulations; and

(b) an annual local content plan in respect of each year.

(3) The Commission shall, within seven working days of the receipt of a local content plan, acknowledge receipt and lodge the local content plan with the Committee.

Review of local content plan

8. (1) The Committee shall within twenty-five working days of the receipt of the local content plan submitted under regulation 7(3), review and assess the plan and inform the Commission in writing of the recommendations of the Committee.

(2) The Committee shall, if satisfied that the plan complies with the requirements of these Regulations, recommend the local content plan to the Commission for approval.

(3) Where the Committee is dissatisfied with the local content plan the Committee shall recommend that the Commission reject a plan and it shall state the reasons for the recommendation.

(4) The Committee may for the purposes of reviewing or assessing the local content plan

(a) provide as far as practicable to persons involved in the petroleum industry or likely to be affected by the decision, a reasonable opportunity of being heard; and

(b) take into account any representation made before submitting its recommendations to the Commission.

(5) The Commission shall approve the local content plan if the Commission is satisfied that

the local content plan complies with the provisions of these Regulations and shall communicate

the decision of the Commission to the applicant within seven working days of the approval of the

recommendations of the Committee.

(6) Where based on the recommendations made by the Committee, the Commission determines not to approve the local content plan, in whole or in part, the Commission, shall within

seven working days of making that determination, notify the applicant and furnish the applicant

with a written statement of the reasons for refusal of the Commission to approve the local content

plan.

(7) Where the Commission refuses to approve the local content plan submitted by the applicant, the applicant shall

(a) revise the local content plan taking into account the recommendations of the Commission, and

(b) within fourteen working days, submit the revised local content plan to the Commission.

(8) Where the Commission fails to notify the applicant of its approval or otherwise of the revised local content plan, the revised local content plan shall be deemed approved after fifty working days of the submission.

Content of the local content plan

9. (1) The local content plan submitted to the Commission by a contractor, subcontractor, licensee or other allied entity shall contain detailed provisions

(a) to ensure that

(i) first consideration is given to services provided within the country and

goods manufactured in the country where the goods meet the specifications of the petroleum industry as established by the Standards Authority by other internationally acceptable standards;

(ii) qualified Ghanaians are given first consideration with respect to employment; and

(iii) adequate provision is made for the training of Ghanaians on the job; and

(b) on how the contractor, subcontractor, licensee or other allied entity intends to guarantee the use of locally manufactured goods where the goods meet the specifications of the petroleum industry as established by the Standards Authority or other internationally acceptable standards.

(2) A collective bargaining agreement entered into by a contractor, subcontractor, licensee or other allied entity in respect of the terms and conditions of employment of an association of employees shall be in accordance with the Labour Act, 2003 (Act 651).

(3) Without limiting subregulations (1) and (2), a local content plan shall have the following sub-plans:

(a) an Employment and Training Sub-Plan as provided in regulation 17;

(b) a Research and Development Sub-Plan as provided in regulation 21;

(c) a Technology Transfer Sub-Plan as provided in regulation 24

(d) a Legal Services Sub-Plan as provided in regulation 30; and Financial Services Sub-Plan as provided in regulation 32.

Local content levels and requirements for contracts

Minimum local content levels

10. (1) The minimum local content for any petroleum activity in Ghana shall be of the levels specified in the First Schedule.

(2) A contractor, subcontractor, licensee, the Corporation or other allied entity shall achieve the minimum local content levels specified in the First Schedule.

(3) Without limiting subregulation (2), the Commission shall take into account

the work programme of a contractor, subcontractor, licensee, the Corporation and other allied entity specified in the respective petroleum agreement or petroleum licence in determining the minimum local content levels to be achieved;

(4) Despite subregulation (3), the Minister in consultation with the Commission, may vary the minimum low content level specified in the First Schedule.

Preference to indigenous Ghanaian companies

11. A contractor, subcontractor, licensee or other allied entity shall establish and implement a bidding process for the acquisition of goods and services to give preference to indigenous Ghanaian companies.

Basis of bid evaluation

12. (1) A contractor, subcontractor, licensee or other allied entity shall not award a contract based solely on the principle of the lowest bidder.

(2) Where an indigenous Ghanaian company has the capacity to execute the job, that indigenous Ghanaian company shall not be disqualified exclusively on the basis that it is not the lowest financial bidder.

(3) Where the total value of the bid of a qualified indigenous Ghanaian company does not exceed the lowest bid by more than ten percent, the contract shall be awarded to that indigenous Ghanaian company.

(4) Where during an evaluation of bids, the bids are adjudged to be equal, the bid containing the highest level of local content shall be selected.

(5) Where a non-indigenous Ghanaian company is required to provide goods and services to a contractor, subcontractor, licensee, or other allied entity, that non-indigenous

Ghanaian company shall

(a) incorporate a company in Ghana as provided in regulation 4(5) and operate it from Ghana; and

(b) provide the goods and services in association with an indigenous Ghanaian

company, where practicable.

(6) The Commission shall establish bid evaluation guidelines in accordance with applicable

laws and regulations for ensuring that the year on year progression of the local content objectives

of these Regulations are met.

Submission of proposed contracts to the Commission

13. (1) A contractor, subcontractor, licensee or other allied entity shall inform the Commission in

writing of each proposed contract or purchase order

(a) related to petroleum activities which is to be sole sourced; or

(b) where it is to be sourced by a competitive bidding procedure that is estimated to be in

excess of the cedi equivalent of one hundred thousand United States Dollars.

(2) A contractor, subcontractor, licensee or other allied entity shall submit the following documents for the approval of the Commission:

(a) advertisements relating to expression of interest;

(b) requests for proposals;

(c) prequalification criteria;

(d) technical bid documents;

(e) technical evaluation criteria; and

(f) any other information requested by the Commission to enable the Commission determine that the local content requirements have been complied with.

(3) The Commission shall, within ten working days of receipt of the documents, communicate its decision to the contractor, subcontractor, licensee or other allied entity.

(4) Where the Commission, without justifiable reason, fails to communicate its decision to

the contractor, subcontractor, licensee or other allied entity within the period specified in

subregulation (3), the submission shall be deemed approved.

Submission of quarterly forecasts

14. (1) Without limiting regulation 13, a contractor, subcontractor, licensee or other allied entity

shall not later than the first day of each quarter submit to the Commission a list of

(a) contract of purchase orders to be sole sourced; and

(b) contracts or purchase orders estimated to exceed the cedi equivalent of one hundred thousand

United States Dollars and intended to be tendered for or executed in the next quarter.

(2) A contractor, subcontractor, licensee or other allied entity shall provide the information specified in the Second Schedule in respect of each contract or purchase order.

Documents required for submission to the Commission during bidding process

15. (1) A contractor, subcontractor, licensee or other allied entity shall provide the Commission with the following information at the various stages of the bidding process:

(a) before issuing a prequalification notification to prospective bidders, the information specified in Part A of the Third Schedule;

(b) before issuing a Request for Proposals or a Request for Quotations, the information specified in Part B of the Third Schedule; and

(c) before award of a contract or purchase order to the selected bidder, the information specified in Part C of the Third Schedule.

(2) The Commission shall confirm that a document submitted is satisfactory or otherwise provide written comments on the document submitted during the bidding process

within fourteen working days of the receipt of the document.

(3) Where the Commission, without justifiable reason fails to acknowledge receipt of

the documents submitted by the contractor, subcontractor, licensee or other allied entity within

the period specified in subregulation (2), the submission shall be deemed approved.

Review of contract

16. (1) The Commission shall, where it considers necessary, review some contracts.

(2) The Commission shall within seven working days of the commencement of a quarter of

the year advise the contractor, subcontractor, licensee or allied entity of which contracts have been

chosen for review by the Commission.

(3) The Commission shall inform the contractor, subcontractor, licensee or other allied entity of the outcome of the assessment or review before the first day of the relevant quarter.

Employment and Training Sub-Plan and Succession Plan

Employment and Training Sub-Plan

17. (1) The Employment and Training Sub-Plan submitted by a contractor, subcontractor, licensee or other allied entity to the Commission with respect to a petroleum activity shall include

(a) a forecast of the hiring and training needs of the contractor, subcontractor, licensee, or other allied entity which includes

(i) a specification of the skills needed;

(ii) the anticipated skill shortages in the Ghanaian workforce;

(iii) the specific training requirements; and

(iv) the anticipated expenditure that will be incurred by the contractor, subcontractor, licensee or other allied entity in implementing the

Employment and Training Sub-Plan as forecasted;

(b) a time frame within which the contractor, subcontractor, licensee or other allied entity will provide employment opportunities for the Ghanaian workforce for each

phase of the petroleum activity to enable members of the Ghanaian workforce prepare for such opportunities; and

(c) efforts made and procedures adopted for the accelerated training of Ghanaians.

(2) The contractor, subcontractor, licensee or other allied entity shall provide to the Commission a quarterly report on

(a) employment and training activities for the reporting period; and

(b) a comparative analysis of the Employment and Training Sub-Plan and the employment and training activities to monitor compliance.

(3) The quarterly report shall state the number of new Ghanaian employees employed during the respective quarter and their job descriptions.

(4) The Commission may request any further information the Commission considers necessary for the purpose of the implementation of these Regulations.

(5) Where Ghanaians are not employed because of lack of expertise, the contractor, subcontractor, licensee or other allied entity shall ensure, to the satisfaction of the Commission that every reasonable effort is made to provide training to Ghanaians in that field locally or elsewhere.

t' Succession plan

18. (1) A contractor, subcontractor, licensee or other allied entity shall, as part of the Employment and Training Sub-Plan, submit to the Commission a succession plan for any employment position that is occupied by a non- Ghanaian to ensure that the minimum local content levels specified in the First Schedule are met.

(2) The succession plan shall make provision for and require Ghanaians to understudy the requirements of the position held by a non-Ghanaian for a period determined by the Commission on a case-by-case basis after which the position occupied by the non-Ghanaian shall be assumed by the Ghanaian.

Middle and junior level positions

19. (1) A contractor, subcontractor, licensee, or other allied entity engaged in

petroleum activities shall employ only Ghanaians in junior level or middle level positions.

(2) For the purpose of subregulation (1), "junior or middle level positions"

includes the position of foreman, supervisor or any corresponding position designated as such.

Programme for Research and Research Development Sub-Plan

Programme for research, development and budget

20. A contractor, subcontractor, licensee or other allied entity shall, after the execution of a petroleum agreement and before the commencement of petroleum activities, submit a programme for research, development and budget to the Commission for the promotion of education, practical attachments, training and research and development in the country in relation to its overall work programme and activities.

Research and Development Sub-Plan

21. (1) A Research and Development Sub-Plan submitted by a contractor, subcontractor, licensee or other allied entity to the Commission with respect to a petroleum activity shall

(a) outline a revolving three to five-year programme for petroleum related research and development initiatives to be undertaken in the country;

(b) provide details of the expected expenditure that will be made in implementing the Research and Development Sub-Plan;

(c) provide for public calls for proposals for research and development initiatives associated with the activities of the contractor, subcontractor, licensee or other allied entity and criteria for selecting proposals which qualify for support.

(2) The contractor, subcontractor, licensee or other allied entity shall

(a) update its Research and Development Sub-Plan annually, and

(b) submit the updated plan to the Commission for review and approval.

Technology transfer programmes and reports

National plan on technology transfer

22. The Commission shall in consultation with the National Development Planning

Commission, relevant Ministries, Departments and Agencies identified by the Commission

(a) develop the national policy on technology transfer with respect to the petroleum industry, and

(b) publish the national policy in the Gazette and a newspaper of national circulation.

Technology transfer programme

23. A contractor, subcontractor, licensee, or other allied entity shall support and carry out a programme in accordance with the national plan on technology transfer and priorities for the promotion of technology transfer to Ghana in relation to the petroleum industry.

Technology Transfer Sub-Plan

24. A Technology Transfer Sub-Plan submitted by a contractor, subcontractor, licensee or other allied entity shall include a programme of planned initiatives aimed at promoting the effective transfer of technologies from the contractor, subcontractor, licensee or other allied entity to a Ghanaian indigenous company or citizen.

Support for technology transfer to indigenous Ghanaian companies

25. (1) A contractor, subcontractor, licensee or other allied entity shall support and facilitate technology transfer as regards the formation of joint ventures, partnering of licensing agreements between indigenous Ghanaian companies or citizens and foreign contractors and service companies or supply companies.

(2) The Minister shall consult with relevant Government agencies to propose fiscal incentives to assist:

(a) foreign companies which aim to develop technological capacity and skills of citizens; and

(b) indigenous Ghanaian companies which establish factories and production units in the country.

(3) For the purposes of subregulation (2), the Government agencies consulted shall collaborate with the Commission.

(4) The Commission shall propose the criteria for obtaining the fiscal incentives.

Technology Transfer Report

26. A contractor, subcontractor, licensee or other allied entity shall submit a technology transfer report annually to the Commission stating the technology transfer initiatives being pursued and the current results in relation to the Technology Transfer Sub-Plan.

Local insurance services content

Insurance and reinsurance

27. (1) A contractor, subcontractor, licensee or other allied entity engaged in a petroleum activity in the country shall comply with the provisions of the Insurance Act, 2006 (Act 724).

(2) The insurable risks relating to petroleum activity in the country shall be insured through an indigenous brokerage firm or where applicable, a reinsurance broker.

Approval of offshore insurance

28. (1) A person who seeks to obtain an insurance offshore service relating to a petroleum activity in the country shall obtain written approval of the National Insurance Commission.

(2) In granting an approval for procuring insurance services offshore, the National Insurance Commission shall ensure that Ghanaian local capacity has been fully exhausted.

Legal services content

Legal services

29. A contractor, subcontractor, licensee or an allied entity engaged in a petroleum activity that requires legal services in the country shall retain only the services of a Ghanaian legal practitioner or a firm of Ghanaian legal practitioners whose principal office is located in the country.

Legal Services Sub-Plan

30. The Legal Services Sub-Plan submitted to the Commission shall include

- (a) a comprehensive report on legal services utilised in the preceding six months by expenditure;
- (b) forecast of legal services required during the ensuing six months where applicable, and the projected expenditure for the services; and
- (c) the annual legal services budget for the ensuing year quoted in Ghana Cedis and United States Dollars.

Financial services content

Financial services

31. (1) A contractor, subcontractor, licensee or other allied entity that requires financial services with respect to a petroleum activity shall retain only the services of a Ghanaian financial institution or organisation

(2) Despite subregulation (1), a contractor, subcontractor, licensee or an allied entity may with the approval of the Commission engage the services of a foreign financial institution or organisation.

Financial Services Sub-Plan

32. A contractor, subcontractor, licensee or an allied entity who has submitted a Financial Services Sub-Plan to the Commission shall specify the following:

- (a) the financial services utilised in the preceding six months by expenditure;
- (b) a forecast of financial services required in the ensuing six months and the projected expenditure for the financial services; and
- (c) a list of financial services utilised in the preceding six months, the nature of financial services provided and the expenditure for the financial services made by the contractor, subcontractor, licensee or other allied entity.

Operation of bank account in Ghana

33. (1) A contractor, subcontractor, licensee or other allied entity shall maintain a bank account with an indigenous Ghanaian bank and transact business through banks in the country.

(2) For the purpose of this regulation, "an indigenous Ghanaian bank" means a bank that has one hundred percent Ghanaian or a majority Ghanaian shareholding.

Local content performance reporting

Requirement for submitting local content performance report

34. (1) A contractor, subcontractor, licensee or other allied entity shall within forty-five days of the beginning of each year after commencement of petroleum activities submit to the Commission an annual Local Content Performance Report covering all its projects and activities for the year under review.

(2) The report shall be in a format prescribed by the Commission and shall

(a) specify by category of expenditure the local content on both current and cumulative cost basis; and

(b) show the employment achievement in terms of hours worked by Ghanaians and foreigners as well as their job positions and remuneration.

Assessment of performance report

35. (1) The Commission shall, within fifty working days after receipt of the Local Content Performance Report, assess and review the Local Content Performance Report to ensure compliance with these Regulations.

(2) For the purposes of assessment and verification of the report, a contractor, subcontractor, licensee or an allied entity shall allow an employee or a designated agent of the Commission access to their facilities, documents and information as the Commission may require.

Requirement of third party reporting

36. (1) A contractor, subcontractor, licensee or other allied entity shall ensure that its partners, contractors, subcontractors and allied entity are contractually bound to report local content information to the contractor, subcontractor, licensee or other allied entity and, if requested, to the Commission.

(2) A contractor, subcontractor, licensee or other allied entity shall allow an agent or official designated by the Commission access to the records of the contractor, subcontractor, licensee or an allied entity for purposes of assessment and verification of

the local content information reported to the contractor, subcontractor, licensee or other allied entity or the Commission.

Data and information on local content

Establishment of a Common Qualification System

37. (1) The Commission shall, in consultation with industry stakeholders, establish a Common

Qualification System.

(2) The Commission shall manage the Common Qualification System in accordance with these Regulations.

Object of the Common Qualification System

38. (1) The object of the Common Qualification System is to serve as the sole system for the registration and pre-qualification of local content in the petroleum industry.

(2) For the purpose of subregulation (1), Common Qualification System shall be used for

(a) the verification of contractors' capacities and capabilities;

(b) the evaluation of application of local content submitted by a contractor, subcontractor, licensee or other allied entity;

(c) the tracking and monitoring of performance and provision of feed back; and

(d) ranking and categorisation of petroleum service companies based on capabilities and local content.

Availability of information

39. (1) A person may during working hours

(a) access records that relate to local content which is kept by the Commission and designated as public records; or

(b) request to be furnished with a certified copy or extract from any document that that person is entitled to access.

(2) The right of a person to inspect or obtain a copy of a document filed or kept in electronic form by the Commission shall extend only to the reproductions of the document in written form in a manner that the Commission determines.

(3) An application for an extract or a certified copy of document requested shall be accompanied by a fee determined by the Commission.

(4) The Commission shall publish on its website, information relating to these Regulations and local content and local participation requirements generally.

Public education

40. The Commission shall ensure that public education activities are undertaken to educate contractors, subcontractors, licensees and other allied entities, the public and industry stakeholders to educate them about the local content policy and philosophy and to ensure the implementation of these Regulations.

Communication of local content policies

41. (1) A contractor, subcontractor, licensee or other allied entity shall

(a) communicate local content policies, procedures and obligations to any person engaged by that contractor, subcontractor, licensee or other allied entity to perform an aspect of a petroleum activity, and

(b) monitor and ensure compliance with local content policies, procedures and obligations.

(2) Despite subregulation (1), a contractor, subcontractor licensee or other allied entity shall make available the local content policies, procedures and obligations of that contractor, subcontractor, licensee or other allied entity available on their respective websites.

Monitoring, compliance and enforcement

Electronic filing of documents

42. (1) The Commission may issue guidelines to provide for a system requiring documents under these Regulations to be filed in electronic form.

(2) The system for filing of documents in electronic form shall be in accordance with the Electronic Transactions Act, 2008 (Act 772) and shall provide for

(a) the criteria for authorising persons to file documents in electronic form, and

(b) the security and authentication of the documents filed.

Establishment of guidelines and procedures by Commission

43. (1) The Commission shall establish and constantly review guidelines and procedures for the effective implementation of these Regulations.

(2) Without limiting subregulation (1), the Commission shall, in consultation with relevant institutions, issue guidelines for compliance by a contractor, subcontractor, licensee and other allied entity in respect of the following:

(a) requirements and targets for the growth of research and development of the petroleum industry of the country;

(b) minimum standards, facilities, personnel and technology for training in the petroleum industry of the country;

(c) investment in or setting up a facility, factory, production unit or other operation in the country to carry out any production or manufacturing or to provide any petroleum related service specified in Part Two of the First Schedule otherwise imported into the country; and

(d) generally for the implementation of these Regulations.

Local content monitoring

44. The Commission shall monitor and investigate the activities of each contractor, subcontractor, licensee and other allied entity to ensure the achievement of the purpose of these Regulations within the framework of the national policy on local content.

Investigations

45. (1) The Commission may for the purposes of enforcing these Regulations initiate an investigation into an activity of a contractor, subcontractor, licensee or other allied entity.

(2) Without limiting subregulation (1), the Commission may launch investigations to ensure that

(a) the Ghanaian company principle is not diluted by the operation of a front; or

(b) bid rigging and cartelisation are avoided in the procurement process.

Offences and penalties

46. (1) A person who submits a plan, returns, report or other document and knowingly makes a false statement, commits an offence and is liable on summary conviction to a fine

of not less than one hundred thousand penalty units and not more than two hundred and fifty thousand penalty units or to a term of imprisonment of not less than two years and not more than five years or to both.

(2) A citizen who acts as a front or connives with a foreign citizen or company to deceive the Commission as representing an indigenous Ghanaian company to achieve the local content requirement under these Regulations, commits an offence and is liable on summary conviction to a fine of not less than one hundred thousand penalty units and not more than two hundred and fifty thousand penalty units or to a term of imprisonment of not, less than one year and not more than two years or to both.

(3) A person who connives with a citizen or an indigenous Ghanaian company to deceive the Commission as representing an indigenous Ghanaian company to achieve the local content requirement under these Regulations commits an offence and is liable on summary conviction to a fine of not less than one hundred thousand penalty units and not more than two hundred and fifty thousand penalty units or to a term of imprisonment of not less than one year and not more than two years or to both.

(4) A person who fails to

(a) support and carry out a programme in accordance with the National Plan on technology transfer in contravention of regulation 23

(b) support and facilitate technology transfer as regards the formation of joint ventures, partnering of licensing agreements between indigenous Ghanaian companies or citizens and foreign contractors and service companies or supply companies in contravention of regulation 25;

(c) ensure that its partners, contractors, subcontractors and allied entities report local content information to the contractor in contravention of regulation 36; or

(d) communicate local content policies, procedures and obligations to any person engaged by that contractor, subcontractor, licensee or other allied entity to perform an aspect of petroleum activity in contravention of regulation 41; is liable to pay to the Commission an administrative penalty of one hundred thousand penalty units in the first instance and a further penalty of five percent of the penalty for each day that the contravention of the regulation continues.

(5) A person who fails to

(a) establish a project office in contravention of regulation 6;

- (b) comply with the minimum local content levels for any petroleum activity in contravention of regulation 10;
- (c) establish and implement a bidding process in contravention of regulation 11;
- (d) comply with regulations 12(1) and 12(5);
- (e) employ only Ghanaians in junior or middle level positions in contravention of regulation 19;
- (f) insure the insurable risks relating to petroleum activities in the country through an indigenous brokerage firm or reinsurance broker in contravention of regulation 27(2);
- (g) obtain the written approval of the National Insurance Commission when seeking to obtain an insurance offshore service relating to a petroleum activity in contravention of regulation 28;
- (h) retain only the services of a Ghanaian legal practitioner or a firm of Ghanaian legal practitioners in contravention of regulation 29; or
- (i) operate a bank account in Ghana with an indigenous Ghanaian Bank in contravention of regulation 33; is liable
- (j) to pay to the Commission an administrative penalty of two hundred thousand penalty units;
- (k) in the case of a contractor, where the contravention continues after the time specified for remedying the contravention, the Commission shall withhold the approvals and permits required by the contractor for the conduct of petroleum activities until the time that the contravention is remedied; and
- (l) in the case of a subcontractor, licensee or other allied entity, where the contravention continues after one time specified for remedying the contravention, the Commission shall expunge the name of the subcontractor, licensee or other allied entity from the Register or persons registered to undertake petroleum activities.

(6) A person who fails to comply with a request to furnish information or a document under these Regulations within the period specified in the request is liable to pay to the Commission an administrative penalty of two hundred thousand penalty units in the first instance and a further penalty of ten percent of the penalty for each day that the document remains undelivered.

(7) A contractor, subcontractor, licensee or other allied entity that

(a) carries out petroleum activities without the required local content requirement in contravention of regulation 3;

(b) fails to submit a local content plan in contravention of regulation 7;

(c) fails to satisfy the content requirement of a local content plan in contravention of regulation 9; or

(d) fails to inform the Commission of each proposed contract or purchase order in contravention of regulation 13, is liable to pay to the Commission a penalty of five percent of the value of the proceeds obtained from the petroleum activity in respect of which the breach is committed but that penalty shall not exceed the cedi equivalent of five million United States Dollars or to the cancellation of a contract in respect of the petroleum activity.

(8) A penalty required to be paid under subregulation (4), (5), (6) or (7) and which is not paid within the period specified in the notice shall be a debt owed to the Republic and recoverable by the Commission from the holder in Court.

Miscellaneous provisions

Complaints to the Minister

47. A person aggrieved by the decision of the Commission in relation to the implementation of these Regulations may lodge a complaint with the Minister who shall within thirty days of receipt of the complaint make a decision on it in accordance with section 20 of the Act.

Transitional provisions

48. Within three months after the commencement of these Regulations, a contractor, subcontractor, licensee, or other allied entity engaged in a petroleum activity shall comply with these Regulations.

Interpretation

49. In these Regulations, unless the context otherwise requires,

"Award Notification Form" means a form designed by a contractor or licensee to inform successful bidder of an award of a contract;

"bid rigging" means the manipulation of a bid process by dishonest means;

"cartelisation" means a collection of businesses that act together as a single producer and agree to influence prices for certain goods and services by controlling supply through their production and marketing activities;

"Commission" means the Petroleum Commission established by the Act;

"Committee" means the Local Content Committee established under sub-section (2) of section 8 of the Act;

"common qualification system" means a sole centralised system of pre-qualified service providers in Ghana's upstream petroleum industry based on their capacities, capabilities and local content strength to enable ranking and categorisation of the service providers as well as tracking and monitoring their performance;

"contractor" means a person who has entered into a petroleum agreement with the Republic to undertake petroleum exploration and production activities under the Act;

"Corporation" means the Ghana National Petroleum Corporation established under section 1 of the Ghana National Petroleum Corporation Act, 1983 (PNDCL 64);

"front" means to deceive or behave in a particular manner to conceal the fact that a company is not an indigenous Ghanaian company;

"in-country spend" means the amount of money spent in relation to the petroleum industry;

"indigenous Ghanaian company" means a company incorporated under the Companies Act, 1963(Act 179)

(a) that has at least fifty-one percent of its equity owned by a citizen of Ghana; and

(b) that has Ghanaian citizens holding at least eighty percent of executive and senior management positions and one hundred percent of non- managerial and other positions;

"licensee" means a person who has been granted a licence to undertake petroleum activities under the Act;

"local content" means the quantum or percentage of locally produced materials, personnel, financing, goods and services rendered in the petroleum industry value chain and which can be measured in monetary terms;

"local content monitoring" means keeping track of or monitoring compliance with these Regulations;

"long term local content plan" means a local content plan that covers a period of five years as specified in the First Schedule;

"National Policy on Local Content" means the Local Content and Local Participation in Petroleum Activities Policy Framework issued by the Ministry responsible for Energy;

"petroleum activities" means any activity engaged in within and outside Ghana related to the exploration for, development and production of petroleum, the acquisition of data and drilling of wells and the treatment, storage, pipeline transportation and decommissioning and the planning, design, construction, installation, operation and use of any facility for the purpose of the activities;

"petroleum operations" means the exploration, development or production, transportation and disposal of petroleum;

"petroleum industry value chain" means the processes involved in the petroleum industry such as exploration, development, production, transportation, processing and marketing;

"qualified" means technical competence and financial capability to fulfill all obligations under a petroleum agreement or petroleum licence;

"subcontractor" means a third party to whom the Corporation or a contractor has entered into a petroleum contract for the provision of services for petroleum operations;

"technical core staff" includes engineers, technicians and geo-scientists; and

"value-addition" means the economic improvement of a product or service in the petroleum industry.

FIRST SCHEDULE

MINIMUM LOCAL CONTENT IN GOODS AND SERVICES

(regulations 1(c), 10 and 18)

PART 1—LOCAL CONTENT LEVELS TO BE ATTAINED FROM DATE OF EFFECTIVENESS OF LICENCE OR PETROLEUM AGREEMENT

Item	Start	5 years	10 years
1. Goods and services	10%	50%	60%-90%
2. Recruitment and training			
(a) Management staff	30%	50%- 60%	70% - 80%
(b) Technical core staff	20%	50%- 60%	70% -80%
(c) Other staff	80%	90%	100%

PART 2 – SPECIFIC LEVELS TO BE ACHIEVED

1. FEED, DETAILED ENGINEERING AND OTHER ENGINEERING SERVICES

Description	Start	5 years	10 years	Measured Unit
1.1 FEED and detailed engineering on onshore facilities	20%	50%	80%	Man-Hour
1.2 FEED and detailed engineering on offshore facilities (shallow water)	10%	30%	70%	Man-Hour
1.3 FEED and detailed engineering on LNG facility	10%	30%	60%	Man-Hour
1.4 FEED and detailed engineering gas gather facilities	20%	50%	80%	Man-Hour
1.5 FEED and detailed engineering on deep offshore facilities – hull and topside modules	10%	30%	70%	Man-Hour
1.6 FEED and detailed engineering on deep offshore concrete structure	10%	30%	70%	Man-Hour

2. FABRICATION AND CONSTRUCTION

Description	Start	5 years	10 years	Measured Unit
2.1 Terminal or oil movement systems	20%	50%	80%	Volume
2.2 Drilling modules or packages	20%	50%	90%	Tonnage
2.3 Piles, anchors, buoys, jackets, bridges,	20%	50%	80%	Tonnage

flare brooms, storage tanks, pressure vessels umbilical				
2.4 Topside module (process modules and storage modules)	10%	30% ^{ro}	50%	Tonnage
5 Accommodation module	10%	40%	70%	Tonnage
2.6 Subsea systems	10%	40%	80%	Tonnage
2.7 Pipeline systems	10%	50%	100%	Tonnage
2.8 Risers (cannot be manufactured Ghana)	10%	50%	100% ^{o1}	Tonnage
2.9 Utilities module or packages	10%	20%	50%	Tonnage

Description	Start	5 years	10 years	Measured Unit
3.1 Steel plates, flat sheets, sections	40%	80%	100%	Tonnage
3.2 Steel pipes	40%	80%	100%	Tonnage
3.3 Low voltage cables	60%	80%	90%	Length
3.4 High voltage cables	60%	80%	90%	Length
3.5 Valves and pumps	20% ^{ro}	40% ^o	60%	Number
3.6 Drilling mud-baryte bentonite	40%	70%	80%/10	Tonnage
3.7 Cement	40%	70%	80%	Tonnage
3.8 Heat exchangers ^h and other piping accessories	10%	50%	80%	Number
3.9 Steel ropes and other mooring accessories	30%	60%	80%	Tonnage
3.10 Protective paints	50%	70%	90%	Litres
3.11 Glass reinforced epoxy (GRE) pipes	20%	50%	70%	Tonnage

4. WELL DRILLING SERVICES

Description	Start	5 years	10 years	Measured Unit
4.1 Reservoir services	20%	40%	75%	Spend
4.2 Well completion services (permanent gauges & intelligent wells)	20%	40%	80%	Spend

4.3 Wire line services (electric open holes, electric cased hole, slickline)	30%	50%	60%	Man-Hour
4.4 Logging while drilling (LWD) (direction and inclination or Gamma ray)	30%	50%	70%	Man-Hour
4.5 Production or drilling service	30%	60%	85%	Man-Hour
4.6 2D Seismic data acquisition services	30%	60%	85%	Length
4.7 Well overhauling or stimulation Man-Hour services	30%	60%	95%	Man-Hour
4.8 Wellhead services	30%	60%	85%	Man-Hour
4.9 Directional surveying service	20%	50%	85%	Man-Hour
4.10 Cutting injections or cutting disposal services	40%	70%	90%	Man-Hour
4.11 Recutting inspection services	40%	60%	85%	Man-Hour
4.12 Cased hole logging services (gyro, perforation, gauges, gyro PLT performance, PLT gauges)	40%	70%	90%	Man-Hour
4.13 Well watch services	30%	50%	70%	Man-Hour
4.14 Cement services	40%	60%	75%	Man-Hour
4.15 Coiled tubing services	20%	40%	75%	Man-Hour
4.16 Pumping services	40%	70%	95%	Man-Hour
4.17 Fluid or bottom hole sampling services	40%	60%	80%	Man-Hour
4.18 OCTS services (cleaning, hard banding, recutting rethreading Storage)	40%	70%	95%	Man-Hour
4.19 Well crisis management services	20%	60%	90%	Man-Hour
4.20 Other drilling services	30%	60%	80%	Man-Hour
4.21 Petrophysical interpretation services	30%	50%	75%	Volume/Man-Hour
4.22 Extended well test or early production Services including provision of	10%	20%	50%	Spend

floating or jackup production unit				
4.23 Rental of drill p pe	40%	60%	75%	Spend

5. RESEARCH AND DEVELOPMENT RELATING TO IN-COUNTRY SERVICES

Description	Start	5 years	10 years	Measured Unit
5.1 Engineering studies--reservoir				
Facilities drilling etc.	20%	40%	60%	Spend
5.2 Geological and geophysical services	20%	30%	R0%	Spend
5.3 Safety and environmental studies	40%	70%	90%	Spend
5.4 Local materials substitution studies	20%	40%	75%	Spend

6. EXPLORATION, SUBSURFACE, PETROLEUM ENGINEERING & SEISMIC SERVICES

Description	Start	5 years	10 years	Measured Unit
6.1 Onshore seismic data	20%	50%	90%	Spend
6.2 Offshore seismic data acquisition services	10%	30%	55%	Spend
6.3 Seismic data processing services	30%	70%	90°/10	Spend
6.4 Geophysical interpretation Services	30%	60%	90%	Spend
6.5 Geological evaluation services (organic geochemistry, petrology, diagenesis, Giostratigraphy, fluid characterisation, PVT, core analysis, flooding)	20%	50%	80%	Spend
6.6 Mud logging services	20%	30%	50%	Spend
6.7 Coring services	30%	60%	90%	Spend
6.8 Well testing services	20%	40%	55%	Spend
6.9 Dnilmg rigs (offshore)	20%	30%	60%	Man-Hour

6.10 Drilling rigs (semi-submersibles or a~ ups or others)	20%	30%	55%	Man-Hour
6.11 Drillsrng rigs (land)	40°0	50%	70%	Man-Hour
6.12 Work-over rigs (offshore)	20%	50%	70°/o	Spend
6.13 Snubbing services	10%	30°x°	80%	Spend
6.14 Liner float, hangers and running equipment services	10° 0	30%	55%	Spend
6.15 Seismic data interpretation Services	20%	60%	90%	Spend

7. TRANSPORTATION, SUPPLY AND DISPOSAL SERVICES

Description	Start	5 years	10 years	Measured Unit
7.1 Tugs remotely operated vehicles (ROV) support, driving support vessels	30%	60%	80%	Spend
7.2 Barges	30%	60%	90%	Spend
7.3 Accommodation platforms, vessels	30%	70%	90%	Spend
7.4 Disposal, distribution and waste transport services	80%	90%	100%	Spend
7.5 Rental of cranes and special vehicles	80%	90%	100%	Spend
7.6 Freight forwarding logistic management services	80%	90%	100%	Spend
7.7 Supply base warehouse, storage services	50%	80%	90%	Spend
7.8 Truck package product, transportation services	80%	90%	100%	Spend

8. HEALTH, SAFETY AND ENVIRONMENT SERVICES

Description	Start	5 years	10 years	Measured Unit
8.1 Site cleanup services	30%	60%	90%	Man-Hour

8.2 Pollution control	20%	30%	45%	Spend
8.3 Wastewater treatment and disposal services	40%	60%	80%	Man-Hour
8.4 Fire and gas protection system services	40%	60%	80%	Man-Hour
8.5 Ventilation, heating, sanitary services	50%	70%	85%	Man-Hour
8.6 Waste disposal, drainage services	50%	80%	90%	Man-Hour
8.7 Industrial cleaning services	50%	80%	90%	Man-Hour
8.9 Safety, protection, security, firefighting, system services	30%	50%	90%	Spend
8.10 Preservation of mechanical and electrical components services	30%	50%	90%	Man-Hour
8.11 Equipment brokerage services	50%	70%	90%	Spend
8.12 Temporary accommodation camp services	50%	60%	80%	Spend
8.13 Catering service	100%	100%	100%	Spend
8.14 Cleaning and laundry services	100%	100%	100%	Spend
8.15 Security services	100%	100%	100%	Spend
8.16 Medical services	40%	60%	90%	Spend
8.17 Other supporting services	50%	80%	90%	Spend

9. INFORMATION SYSTEMS, INFORMATION TECHNOLOGY AND COMMUNICATION SERVICES

Description	Start	5 years	10 years	Measured Unit
9.1 Network installation, support services	80%	90%	95%	Spend
9.2 Software development	40%	60%	80%	Spend

9.3 Software support services	60%	80%	90%	Spend
9.4 Computer based modelling services	20%	50%	70%	Spend
9.5 Computer based simulations and training programme services	20%	50%	70%	Spend
9.6 Hardware installation support services	80%	90%	100%	Spend
9.7 Operating system installation and support services	80%	90%	100%	Spend
9.8 User support and help desk services	20%	50%	80%	Spend
9.9 Information Technology Management consultancy services	30%	50%	80%	Spend
9.10 Data Management services	30%	50%	80%	Spend
9.11 Telecommunication installation and support services	50%	70%	90%	Spend
9.12 Other Information Technology services	30%	50%	80%	Spend

10. MARINE OPERATIONS AND LOGISTICS SERVICES

Description	Start	5 years	10 years	Measured Unit
-------------	-------	---------	----------	---------------

10.1 Telecommunications services	50%	70%	90%	Man-Hour
10.2 Supply of crewmen for domestic coastal services	80%	90%	95%	Number
10.3 Driving or ROV or submersible Operations	20%	40%	70%	Man-Hour
10.4 Hook-up and commissioning including marine installation Services	20%	40%	75%	Man-Hour
10.5 Dredging services	50%	70%	90%	Man-Hour or Spend
10.6 Gravel and rock dumping Services	80%	90%	95%	Man-Hour
10.7 Floating storage units (FSU) R	25%	35%	45%	Man-Hour
10.8 Subsea pipeline protection Services	10%	40%	70%	Man-Hour
10.9 Installation of subsea packages	10%/0	30%	60%	Man-Hour
10.10 Mooring system services	60%	70%	90%	Man-Hour

SECOND SCHEDULE

(regulation 14 (2))

Information to be provided to Commission with quarterly forecasts

A contractor, subcontractor, licensee or other allied entity shall provide the information specified below in respect of each contract, subcontract and purchase order:

1. A description of the service or items to be contracted or purchased including the material

and equipment specification if requested.

2. The estimated value of the contract, subcontract or purchase order.

3. The anticipated dates for the following:

(a) the issuance and closure of the Request For Proposals; and

(b) contract award.

4. Any other information requested by the Commission for the implementation of these Regulations.

THIRD SCHEDULE

PART – A

(regulation 15 (1) (a))

Information to be provided by a contractor, subcontractor, licensee or other allied entity to Commission prior to issue of prequalification of prospective bidders

A licensee or contractor shall provide the information specified below prior to issuing a prequalification notice to bidders:

1. A description of the scope of work.
2. A copy of the prequalification notification, where the related documents differ from the standard prequalification notice previously reviewed and approved by the Commission.
3. The list of companies indicating locations of head offices and contact persons and numbers to which questions will be directed.
4. The anticipated dates for closure of prequalification and issuance of Request for Proposals or a Request for Quotations.

PART – B

(regulation 15 (1) (b))

Information to be provided by a licensee or contractor to Local Content Committee prior to issue of Request for Proposals or Request for Qualification

For the purposes of compiling a bidding list for any project, the operator or contractor shall

provide the information specified below prior to issuing a Request for Proposals or Request for

Qualification:

1. A list of bidders;
2. A copy of the Request for Proposals or Request for Qualification in respect of which the

Commission will advise the licensee or contractor of its requirements on a case by case basis;

3. A description of the corporate ownership of the bidders, including the main shareholders by percentage;
4. The location of any Ghana based office, plant or facility;
5. The anticipated dates for closure of bids and award of contract or purchase orders; and
6. Any other information which the Commission shall request.

PART – C (regulation 15 (1) (c))

Information to be provided by a licensee or contractor to the Commission prior to the award of contract or purchase order to the selected bidder

Prior to the award of contract or purchase order to the selected bidder, the licensee or contractor

shall provide the information specified below:

1. The name of the selected contractor or vendor;
2. A list of designated sub-contractors or sub-vendors;
3. Where applicable, a list of proposed sub-suppliers;
4. In respect of construction or service contracts, the estimated Ghanaian employment level in person-hours;
5. The commencement and completion dates for the contract or purchase order;
6. The Award Notification Form signed by the appropriate official of the operator or

contractor;

7. A statement of award rationale or bid evaluation report showing the following:

- (a) the name of the selected contractor or vendor;
- (b) the list of designated sub-contractors or sub-vendors;
- (c) where applicable, a list of proposed sub-suppliers;
- (d) in respect of construction or service contracts, the estimated Ghanaian employment level in person-hours;
- (e) the commencement and completion dates for the contract or purchase order;
- (I) the Award Notification Form signed by an appropriate official of the operator;
- (g) a statement of award rationale or bid evaluation report showing:
 - (i) the percentage difference in price between selected bidder and the other bids;
 - (ii) the primary location of work associated with each bidder;
 - (iii) the estimates of local content associated with the bid of each bidder calculated in accordance with the definition of the local content to be provided by the Commission;
 - (iv) any other information relevant to the evaluation of bids including where applicable, a summary of the technical, commercial and local content aspects of the bid evaluation.

HON. EMMANUEL ARMAH KOFIBUAH Minister responsible for Energy and Petroleum

Date of Gazette notification: 12th July, 2013.

Entry into force: