



LOCAL CONTENT SECRETARIAT

PROCUREMENT AND BID **EVALUATION GUIDELINE**

Version 1.0
April 19, 2022



About

The Local Content Secretariat ('the Secretariat'), a unit within the Ministry of Natural Resources, was established pursuant to the enactment of the Local Content Act No. 18 of 2021 ('the Act'). In keeping with the Act, the Secretariat is mandated to ensure that the provisions of the Act are implemented. The Secretariat functions as the focal point for the monitoring, evaluation, coordination and reporting of local content in the petroleum operations of Guyana.

Note

This Guideline is one of several guidelines issued by the Secretariat aimed at providing guidance with respect to the provisions stipulated in the Act. This Guideline may be amended from time to time as the Secretariat deems necessary for the purpose of carrying out the provisions of the Act

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Document Revision Control Matrix

Version 1.0	February 14, 2022	This is the first version of the guideline.
Version 1.1	April 19, 2022	Definition of 'Sub-Contractor' and subsection 3.2 updated.



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1. Introduction

1.1. Background

The Government of Guyana has solidified its commitment to ensuring that the benefits derived from the foreign direct investments into Guyana's petroleum sector, are captured and retained in-country, through the enactment of the [Local Content Act No. 18 of 2021](#) ('the Act'). The Act provides for the implementation of local content obligations on companies and persons engaged in petroleum operations or related activities in the petroleum sector and prioritizes Guyanese nationals and Guyanese companies in the procurement of goods and services for the enhancement of the value chain of the sector. The Act also serves to enable local capacity development and provide for the investigation, supervision, co-ordination, monitoring and evaluation of, and participation in, local content in Guyana.

The Local Content Secretariat ('the Secretariat') is mandated to ensure that the provisions of the Act are implemented and functions as the regulatory arm for the monitoring, evaluation, coordination and reporting of local content in the petroleum operations of Guyana.

In so far as the Act mandates every Contractor, Sub-Contractor, or Licensee to implement local content as an essential component of their petroleum operations, the Secretariat, through the issuance of industry guidelines, aims to provide detailed and specific guidance to Contractor, Sub-Contractors or Licensees with regards to their reporting obligations.

The Act obligates Contractors, Sub-Contractors or Licensees to incorporate local content as part of their bid evaluation process as well as meet minimum local content requirements with respect to the procurement of goods and services. As such, these guidelines serve to provide clarity relative to the bid evaluation requirements of the Act.

1.2. Purpose and Objectives of Guidelines

This Guideline is intended to:

- (a) Provide clarity to Contractors, Sub-contractors and Licensees on the Act as it relates to procurement requirements;
- (b) Ensure fair competition and transparency in tendering processes of Contractors, Sub-contractors and Licensees;
- (c) Ensure that there is preference to, or equal treatment of, Guyanese nationals and Guyanese companies;
- (d) Ensure the procurement process of Contractors, Sub-contractors and Licensees support local capacity development and transfer of skills and technology.



1.3. Legal Basis and Authority

This guideline is issued pursuant to sections 5(4)(e) and 13 (4) of the Act.

Section 5(4)(e) and (f) of the Act provides for the Secretariat to develop formats and guidelines for, inter alia, reporting.

Section 13(4) of the Act references the bid evaluation guideline to be developed by the Secretariat which will provide guidance to the Contractors, Sub-contractors, and Licensees on the evaluation of local content.

1.4. Scope and Applicability

The Procurement and Bid Evaluation Guideline serves as direction for Contractors, Subcontractors and Licensees engaged in petroleum operations or related activities in the petroleum sector in Guyana to incorporate local content into their (i) procurement and, in particular, (ii) bid evaluation processes.

2. Definitions

For the purposes of these Guidelines:

“Act” refers to the Local Content Act 2021, Act No. 18 of 2021 and its subsidiary regulations;

“Competitive bidding” means inviting three or more suppliers or service providers to submit offers for any material or service that has been initiated by a widely circulated public tender process;

“Competitive bidding process” means the process of requesting information, proposals or quotations from three or more suppliers or service providers through a widely circulated process, evaluating the proposals by comparing them against one another, and negotiating the terms with the highest ranked bidder;

“Contractor” includes any person who enters into a Petroleum Agreement with the Minister in accordance with section 10 of the Petroleum (Exploration and Production) Act;



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“Director” means the Director of the Local Content Secretariat;

“Guyanese company” means –

(a) any company incorporated under the Companies Act –

- (i) which is beneficially owned by Guyanese national who ultimately exercise, individually or jointly, voting rights representing at least fifty-one (51) percent of the total issued shares of the company; and
- (ii) that has Guyanese nationals holding at least seventy-five percent of executive and senior management positions and at least ninety (90) percent of non-managerial and other positions; or

(b) any partnership between Guyanese nationals and a company constituted under subclause (a) in accordance with the Partnership Act;

“Guyanese national” is a citizen of Guyana;

“Licensee” means the holder of a licence granted under the Petroleum (Exploration and Production) Act;

“Local content” means the monetary value of inputs from the supply of goods, or the provision of services, by Guyanese nationals or Guyanese companies and includes local capacity development;

“Minister” means the Minister with responsibility for petroleum;

“Petroleum operations” include operations carried out for, or in connection with, the prospecting for, or production of, petroleum;

“Purchase Order” means any document issued by a Contactor, Sub-contractor or Licensee, referencing an agreement or sub-agreement specifying the goods to be supplied or the services to be provided to the Contractor, Sub-contractor or Licensee, and includes an order, call-off, release, work release, work order, work authorization, letter of authorization as well as any written modification to the purchase order (change order);



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“Procurement” means the acquisition of goods by any means including purchase, rental, lease or hire-purchase, and the acquisition of any service;

“Secretariat” means the Local Content Secretariat established pursuant to section 6 of the Local Content Act;

“Sole Source” means procuring goods or services from a single supplier or service provider even when more than one supplier or service provider is available;

“Sub-Contractor” includes any person with whom a Contractor or Licensee has entered into an agreement for the provision of goods and services within the Contractor’s or Licensee’s supply chain management, and -

- (a) operates in Guyana either:
 - (i) registered as an external company; or
 - (ii) as a company incorporated,
under the Companies Act Cap 89:01;
- (b) has a physical presence in Guyana;
- (c) procures goods and services for petroleum operations; and
- (d) provides the following services:
 - (i) marine vessel support;
 - (ii) FPSO vessel;
 - (iii) Shore Base;
 - (iv) Drilling Support;
 - (v) Drilling;
 - (vi) SURF;
 - (vii) Manpower and Crewing Services; or
 - (viii) any other service(s) deemed relevant by the Minister.

“Supply Chain Management” includes all stages involved in the procurement of goods and services for use in petroleum operations.

All capitalized terms not otherwise defined in this guideline shall have the meanings ascribed to them in the Laws of Guyana. In this guideline, unless the context otherwise requires, words in the singular shall include the plural and words in the plural shall include the singular.



3. Guidelines for Procurement

3.1. Procurement process

Section 13 (3) of the Act provides that any contract awarded by Contractors, Sub-contractors or Licensees shall be on the basis of a competitive bidding process that has been initiated by a widely circulated public tender process; except where prior approval has been sought and granted by the Minister for the use of the sole sourcing method of procurement.

As such, and in keeping with the definition of a competitive bidding process, Contractors, Sub-contractors and Licensee must advertise all Request for Information ('RFI'), Request for Quotations ('RFQs') or Request for Proposals ('RFPs') through at least two (2) mediums that are widely circulated throughout Guyana. These mediums may include:

- (a) Local daily newspaper publications;
- (b) Social Media platforms of the company such as Facebook, Instagram and twitter;
- (c) The company's website; or
- (d) The local content Secretariat's web page.

3.2. Proposed contracts or purchase orders (POs)

- (a) A Contractor, Sub-Contractor or Licensee shall notify the Secretariat of all proposed contracts **OR** purchase orders (POs) irrespective of the value of the contracts.

For efficiency and practicality, the following clarity are hereby offered:

- I. Where the Contractor, Sub-Contractor or Licensee submits a proposed contract for approval, and subsequent approval is granted, all resulting POs stemming from the said approved contract are not required to be submitted, unless otherwise requested by the Secretariat.
- II. Where a Contractor, Sub-Contractor, or Licensee does not submit a proposed contract for approval, they will be required to submit the POs for approval.

Further, for efficiency and practicality, the following exemptions are hereby offered:

- III. Where the proposed contracts or POs form part of an **approved** Local Content Annual Plan submitted as part of the annual procurement sub-plan by the Contractor, Sub-Contractor or Licensee in the year in which the activity is carried out. The information on



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the proposed contracts or POs provided in the annual procurement sub-plan should be equal to or more than those required in the individual submissions required under this guideline.

IV. Where the proposed contracts or POs relate to one of the following items:

- The emergency purchase of stationery or office supplies below the value of GYD\$ 100,000; and
- Routine purchases (such as taxi fare reimbursement, office snacks, water, juice etc.) where petty cash or imprest systems are used, and where the value for each individual purchase is below GYD\$100,000.

V. In accordance with the published Sole Source Approval Form (FORM A1), a Contractor, Sub-Contractor or Licensee shall request and attain approval of the Minister before the sole sourced contract is awarded.

In reviewing the request to sole source, the Minister and the Secretariat will consider the following:

- (i) Whether, pursuant to the Act, the proposed supplier of the goods or provider of the services is a Guyanese company or Guyanese national;
- (ii) Whether the goods and services are part of the Sectors and Sub-sectors under First Schedule of the Act;
- (iii) Whether the Secretariat is in possession of information that there is local capacity to provide the goods and services;
- (iv) Whether a competitive bidding process would allow for data gathering on local capacity for the supply of the goods or services; and
- (v) Any other matter that (i) is incidental to the abovementioned at 3.2(b)(i),(ii),(ii) and (iv) that the Minister and the Secretariat deems necessary for the purpose of carrying out the objectives of the Act.

The notification and request for approval to sole source shall be submitted to the Minister and the Director via FORM A-1 - *Application for Approval of a Proposed Contract or Purchase Order (Sole Sourced)* developed and published by the Secretariat. Further guidance on this application is available at www.petroleum.gov.gy.



3.3. Notice of Intent to Source through a Competitive bidding process

A Contractor, Subcontractor or Licensee shall notify the Secretariat of the intent to issue a RFI, RFQs or RFPs where the value of such proposed contract is above a limit specified by the Minister responsible for Petroleum.

Method of Submission

The notification shall be submitted to the Minister and the Director, via FORM A-2 - *Proposed Contract or Purchase Order (Competitive) in Excess of Prescribed Value* which will be published by the Secretariat.

3.4. Unbundling of Contracts

- (a) A Contractor, Subcontractor, Licensee shall, as far reasonably possible, unbundle the proposed scope of works/services into smaller units so as to enable Guyanese companies and Guyanese nationals to participate in the tender.
- (b) To ensure verification of compliance to the requirements of the Act, Contractors, Sub-Contractors, or Licensees should ensure that the Sectors and Sub-sectors specified in the First Schedule of the Act are not bundled during the planning process.

Further information on the format of the Annual Procurement Sub-Plan to ensure that bundling is minimized is available in the Local Content Annual Plan Submission Guidance developed by the Secretariat.

3.5. Period for Submission of Bids

A Contractor, Sub-Contractor or Licensee shall ensure that all requests for bids on the basis of any RFP or RFQ are (i) requested at the same time and (ii) are given a minimum of two (2) weeks to prepare and submit bids after the issuance.



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This information should always be clearly displayed on the RFP and RFQ documentation.

3.6. Bid Clarifications

A Contractor, Sub-Contractor or Licensee shall give all bidders the opportunity to seek clarifications where necessary. In all cases, responses to queries/feedback, updates and clarifications shall be communicated to all bidders in a bulletin at the same time.

3.7. Fair and Transparent Procurement Process

To ensure transparency and fairness in the procurement process, the rules governing the bid process must be clearly articulated in the RFP or RFQ issued and, at minimum, shall include:

- (a) Contracting strategy;
- (b) Bid evaluation criteria which should clearly explain the local content requirements;
- (c) The methodology/approach for bid evaluation (knock out or weighting approach) and the stages of application during bid evaluation; and
- (d) Mode of communication for submission of bids, issue of bid clarifications, communication of awards, etc.

3.8. Request for Contracting Strategy by the Secretariat

The Secretariat may request the Contractor, Subcontractor or Licensee to present its contracting strategy to the Secretariat after receiving a notification for intent to sole source or source through a competitive bidding process. The Contracting strategy shall, at minimum, include:

- (a) Scope of work and estimated contract sum;
- (b) Bid evaluation plan (i.e., evaluation criteria; weights allotted to each criterion, scoring model; determination of the most responsive);
- (c) The evaluation criteria;
- (d) Duration for response (e.g., bid issuance date and closing date);
- (e) Proposed bid list; and
- (f) Any other item determined by the Secretariat for the purpose of carrying out the objectives of the Act.



4. Guidelines for Bid Evaluation

4.1. Evaluation of Local Content

Section 13 (1) of the Act provides that a Contractor, Sub-Contractor or Licensees shall incorporate local content as part of the Contractor's, Sub-Contractor's, or Licensee's bid evaluation criteria. To assist in evaluating the local content commitments of each bidder, Contractors, Sub-Contractors or Licensees shall, at minimum, consider the following:

- (a) Employment (number of Guyanese employed)– both current and proposed;
- (b) Training, mentoring, knowledge, skills and technology transfer- and development of Guyanese nationals;
- (c) Subcontracting to Guyanese companies and Guyanese nationals and use of local goods and services;
- (d) In-country investment (capital or facilities);
- (e) Technology and Skills Transfer Plan; and
- (f) Local Supplier Development.

4.2. Local Content Score and weighting

To ensure objectivity in any competitive bidding process, a Contractor, Sub-Contractor or Licensee shall assign a score or a weighting to the local content criteria in accordance with the following:

- a) Where a Contractor, Sub-Contractor or Licensee evaluates local content as part of the technical evaluation criteria, the weighting of local content considerations shall be **no less than ten (10) percent** of the total score allocated to the technical criteria used for evaluation.

For example, where the score for the technical criteria is 100, the local content score shall be no less than 10.

- b) Where local content is evaluated as a separate criterion (outside of the technical criteria), the weighting allocated to local content consideration shall be **no less than five (5) percent** of the overall scoring used for the evaluation of bidders.



4.3. Request for Bid Evaluation Report

The Secretariat may request a Contractor, Sub-Contractor or Licensee to submit the bid evaluation report for a particular contract award in the execution of its function. The bid evaluation report shall, at minimum, contain the following:

- (a) Pre-qualification Process;
- (b) Invitation To Tender (ITT) Process;
- (c) Evaluation Criteria and scoring used;
- (d) Outcome of the Scoring Model (i.e., Technical, HSE, Commercial and Local Content);
- (e) Partners' approval in the form of resolutions in the case of Operators;
- (f) The Contract Value;
- (g) Proposed contract commencement and completion dates;
- (h) The reasons for the rejection of non-responsive bids;
- (i) Recommendation to award; and
- (j) Any other information or attachments (i) relevant to the evaluation or (ii) which the Secretariat considers necessary for the purpose of carrying out the objectives of this Act.

4.4. Contract award

Pursuant to section 13(4) of the Act, the contract award shall be to the successful bidder resulting from the competitive bidding process.

Pursuant to section 13(5) of the Act, where two or more bids are adjudged to be equal, or two or more bids are within five percent of each other when financially (or commercially) evaluated but is otherwise adjudged to be equal, the bid containing the highest level of local content (the bidder with the highest local content score or weighting) shall be selected as the winning bidder.

5. Offences and Penalties

- (a) A Contractor, Sub-Contractor or Licensee who - pursuant to section 23(1) of the Act - submits, or causes to be submitted, any record or any other information knowing, or ought reasonably to have known, that the submission is false or misleading, commits an offence and is liable on summary conviction to a fine of ten million dollars.



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- (b) A contractor, Sub-contractor, or Licensee who - pursuant to section 23(3)(b) of the Act - carries out petroleum operations without the minimum local content requirements commits an offence and is liable on summary conviction to a fine of fifty million dollars.
- (c) A Contractor, Sub-Contractor or Licensee who fails to submit to the Secretariat, the notification of intent to sole source a contract or purchase - pursuant to section 23(3)(c) of the Act and in accordance with these Guidelines - commits an offence and is liable on summary conviction to a fine of five million dollars.
- (d) A Contractor, Sub-Contractor or Licensee who fails to submit to the Secretariat, the notification of intent to source through a competitive bidding process, a contract or Purchase order, which is in excess of the value prescribed by the Minister - pursuant to section 23(3)(c) of the Act and in accordance with these Guidelines - commits an offence and is liable on summary conviction to a fine of five million dollars.
- (e) A Contractor, Sub-Contractor or Licensee who - pursuant to section 23 (3)(e) of the Act -fails to satisfy the prescribed content requirement of an approval local content plan commits and offence and is liable on summary conviction to a fine of ten million dollars.
- (f) A Contractor, Sub-Contractor or Licensee who - pursuant to section 23 (3)(g) of the Act -fails to comply with a request by the Minister or Secretariat to review or provide information on, any return, report, record, or any other document pursuant to the provisions of the Act commits and offence and is liable to a fine of one million dollars.