

**PETROLEUM EXPLORATION, DEVELOPMENT AND PRODUCTION  
(LOCAL CONTENT) REGULATIONS, 2014**

**IN EXERCISE** of the power conferred by section 85 (5) of the Petroleum Exploration, Development and Production Act, 2014, the Cabinet Secretary makes the following Regulations

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**PART I – PRELIMINARY**

Citation

**1.** These regulations may be cited as the Petroleum Exploration, Development and Production (Local Content) Regulations, 2014.

Interpretation

**2.** In these Regulations, unless the context otherwise requires –

“bid rigging” means the manipulation of a bid process by dishonest means;

“cartelization” 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;

“Authority” means the Upstream Petroleum Authority established by the Petroleum (Exploration, Development & Production) Act 2014;

“Unit” means the Local Content Unit established under Regulation 7;

“common qualification system” means a sole centralized system of pre-qualified service providers in Kenya's upstream petroleum industry based on their capacities, capabilities and local content strength to enable ranking and categorization 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 Government to undertake petroleum exploration and production activities under the Petroleum (Exploration, Development & Production) Act 2014;

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

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

“indigenous Kenyan company” means a company incorporated under the Companies Act, Cap 486 that has:

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

(b) Kenyan 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 license 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;

“qualified” means technical competence and financial capability to fulfill all obligations under a petroleum agreement or petroleum license;

“subcontractor” means a third party to whom the National Oil Company 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.

Application

**3.** These Regulations apply to local content with respect to the upstream petroleum operations.

## **PART II – LOCAL CONTENT OBLIGATIONS**

Local content requirement

**4.** A contractor or its sub-contractor, licensee, or any other entity carrying out upstream petroleum operations shall ensure that local content is a component of the petroleum activities engaged in by the contractor or its sub-contractor, licensee, or any other entity.

Establishment of project office

**5.** A contractor or its sub-contractor, licensee, or any other entity, before carrying out any work or activity in the upstream petroleum activities, shall establish a project office, where procurement, project management and implementation decision making are to take place, to the satisfaction of the Authority.

Participation of a  
Kenya citizen in  
petroleum  
operations

**6.** (1) Subject to Regulation 18(1), Kenyans citizens shall be given the first consideration for employment and training in any project executed by the contractor or its sub-contractor, licensee, or any other entity in upstream petroleum activities.

(2) First consideration shall be given to services provided from within Kenya, to goods manufactured in Kenya, to locally available good and Kenyans citizens subject to the fulfillment of the conditions specified in these Regulations.

(3) There shall be at least a five percent equity participation of an indigenous Kenyan company other than the National Oil Company to be qualified to enter into a petroleum agreement or a petroleum license.

(4) Notwithstanding sub-regulation (3), the Cabinet Secretary may on advice of the Committee vary the requirement specified in that sub-regulation, in circumstances where an indigenous Kenyan company is unable to satisfy the requirement of the five percent equity participation.

(5) A non-indigenous Kenyan company which intends to provide goods, works or services to a contractor or its sub-contractor, licensee, or any other entity within the country shall incorporate a joint venture company or enter into a favorable business arrangement with an indigenous Kenyan company and afford that indigenous Kenyan company a participation of at least ten percent of equity or contract value.

(6) A contractor or its sub-contractor, licensee, or any other entity shall before the commencement of petroleum activities submit a plan to the Authority specifying

- (a) the role and responsibilities of the indigenous Kenyan company;
- (b) the equity participation of the indigenous Kenyan company;  
and
- (c) the strategy for the transfer of technology and know-how to the indigenous Kenyan company.

Establishment of  
the Local Content  
Development and  
Monitoring Unit

**7.** The Authority shall establish the Local Content Development and Monitoring Unit (“the Unit”) to monitor, coordinate and implement the provisions of these Regulations.

Local Content Plan

**8.** (1) In the bidding for any license, permit or interest and before carrying out any project in the Upstream Petroleum Operations, a contractor or its sub-contractor, licensee, or any other entity shall submit a Local Content Plan to the Authority demonstrating compliance with the Kenyan local content requirements of these Regulations.

(2) For the purposes of subregulation (1), a contractor or its sub-contractor, licensee, or any other entity shall submit to the Authority:

- (a) a long term Local Content Plan which corresponds with the work programme that accompanies the application made by the contractor, licensee, or any other entity to undertake petroleum activities as specified in these Regulations; and
- (b) an annual Local Content Plan in respect of every twelve months period.

(3) The Authority shall, within seven working days of the receipt of a Local Content Plan, acknowledge receipt and lodge the Local Content Plan with the Unit.

Review of Local  
Content Plan

**9.** (1) The Unit shall within twenty-one working days of receipt of the Local Content Plan submitted under Regulation 8(3), review and assess the plan and inform the Authority in writing of its recommendations.

(2) The Unit shall, if satisfied that the Plan complies with the requirements of these Regulations, recommend the Local Content Plan to the Authority for approval.

(3) Where the Unit is dissatisfied with the Local Content Plan the Unit shall recommend that the Authority reject a Plan and it shall state the reasons for the recommendation.

(4) The Authority shall approve the Local Content Plan if it is satisfied that the Plan complies with the provisions of these Regulations and shall communicate its decision to the applicant within seven working days of the approval of the recommendations of the Unit.

(5) Where based on the recommendations made by the Unit, the Authority determines not to approve the Local Content Plan, in whole or in part, the Authority, 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 Authority to approve the Local Content Plan .

(6) Where the Authority 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 Authority, and
- (b) within fourteen (14) days, submit the revised Local Content Plan to the Authority.

(7) Where the Authority 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 sixty (60) days of the submission.

Content of the local content plan

**10.** (1) The Local Content Plan submitted to the Authority shall ensure that:

- (a) 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 Kenya Bureau of Standards or by other internationally acceptable standards;
- (b) qualified Kenyans are given first consideration with respect to employment; and
- (c) adequate provision is made for the training of Kenyans on the job;

(2) Without limiting sub-regulation (1), a Local Content Plan shall have the following sub-plans:

- (a) an Employment, Training and Succession Plan;
- (b) a Research and Development Plan;
- (c) a Technology Transfer Plan;
- (d) a Legal Services Plan; and
- (e) Financial Services Plan.

as provided in these Regulations.

*Local content levels and requirements for contracts*

Minimum local content levels

**11.** (1) The minimum local content for any upstream petroleum operations in Kenya shall be of the levels specified in the First Schedule.

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

(3) Without limiting sub-Regulation (2), the Authority shall take into account the work programme of a contractor or its subcontractor, licensee, and other entity specified in the respective petroleum agreement or petroleum license in determining the minimum local content levels to be achieved;

(4) Notwithstanding sub-Regulation (3), the Cabinet Secretary in consultation with the Authority, may vary the minimum local content level specified in the First Schedule.

Preference to indigenous Kenyan companies

**12.** A contractor or its sub-contractors, licensee, or any other entity shall establish and implement a bidding process for the acquisition of goods, works and services to give preference to indigenous Kenyan companies.

Basis of bid evaluation

**13.** (1) A contractor or its sub-contractors, licensee, or any other entity shall not award a contract based solely on the principle of the lowest bidder.

(2) Where an indigenous Kenyan company has the capacity to execute goods, works and services, the indigenous Kenyan 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 Kenyan company does not exceed the lowest bid by more than ten percent, the contract shall be awarded to that indigenous Kenyan 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 Kenyan company is required to provide goods and services to a contractor, subcontractor, licensee, or any other entity, that non-indigenous Kenyan company shall

(a) incorporate a company in Kenya as provided in Regulation 6(5) and operate it from Kenya or enter into a favorable business arrangement with a Kenya company; and

(b) provide the goods and services in association with an indigenous Kenyan company, where practicable.

(6) The Authority 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 Authority

**14.** (1) A contractor or its sub-contractors, licensee, or any other entity shall inform the Authority 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 Kenya Shilling equivalent of one hundred thousand United States Dollars (US\$100,000.00).

(2) A contractor or its sub-contractor, licensee, or any other entity shall submit the following documents for the approval by the Authority:

- (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 Authority to enable the Authority determine that the local content requirements have been complied with.

(3) The Authority shall, within fourteen (14) days of receipt of the documents, communicate its decision to the contractor or its sub-contractors, licensee, or any other entity.

(4) Where the Authority, without justifiable reason, fails to communicate its decision to the contractor or its sub-contractors, licensee, or any other entity within the period specified in sub-Regulation (3), the submission shall be deemed approved.

Submission of  
quarterly forecasts

**15.** (1) Without limiting Regulation 14, a contractor, licensee, or any other entity shall not later than the first day of each quarter submit to the Authority a list of:

- (a) contract of purchase orders to be sole sourced; and
- (b) contracts or purchase orders estimated to exceed the Kenya Shilling equivalent of one hundred thousand United States Dollars (US\$100,000) and intended to be tendered for or executed in the next quarter.

(2) A contractor or its sub-contractor, licensee, or any other entity shall provide the information specified in Regulation 14 in respect of each contract or purchase order.

Documents required  
for submission to  
the Authority  
during bidding  
process

**16.** (1) A contractor or its sub-contractors, licensee, or any other entity shall provide the Authority with the following information at the various stages of the bidding process:

- (a) before issuing a pre-qualification notification to prospective bidders;
  - (i) a description of the scope of work

- (ii) a copy of the prequalification notification, where the
  - (iii) related documents differ from the standard prequalification notice previously reviewed and approved by the Authority.
  - (iv) the list of companies indicating locations of head office and contact persons and numbers to which questions will be directed.
  - (v) the anticipated dates for closure of prequalification and issuance of Request for Proposals or a Request for Quotations.
- (b) before issuing a Request for Proposals or a Request for Quotations;
- (i) a list of bidders;
  - (ii) a copy of the request for Proposal or Request for Quotations in respect of which the Authority will advise the contractor, licensee, or any other entity of its requirements on a case-by-case basis;
  - (iii) a description of the corporate ownership of the bidders, including the main shareholders by percentage;
  - (iv) the location of any Kenyan based office, plant or facility
  - (v) the anticipated dates for closures of bids and award of contract or purchase orders; and
  - (vi) any other information which the Authority shall request.
- (c) before award of a contract or purchase order to the selected bidder, the information specified below shall be furnished by the licensee or contractor.
- (i) the name of the selected contractor or vendors;
  - (ii) a list of designated sub-contractors or sub-vendors;
  - (iii) where applicable, a list of proposed sub-suppliers;
  - (iv) in respect of construction or service contracts, the estimated Kenyan employment level in man-hour;
  - (v) the commencement and completion dates for the contract or purchase order;



- (vi) the award notification form signed by the appropriate official of the licensee or contractor;
- (vii) 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-contractor or sub-vendor;
  - c. where applicable, a list of proposed sub-suppliers;
  - d. the percentage difference in price between selected
  - e. bidder and the other bids;
  - f. the primary location of work associated with each bidder;
  - g. 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 Authority; and
- (viii) 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.

(2) The Authority shall confirm that a document submitted is satisfactory or otherwise provide written comments on the document submitted during the bidding process within twenty one (21) days of the receipt of the document.

(3) Where the Authority, without justifiable reason fails to acknowledge receipt of the documents submitted by the contractor, licensee, or any other entity within the period specified in sub-regulation (2), the submission shall be deemed approved.

Power to review contract

**17.** (1) The Authority shall, where it considers necessary, review some contracts.

(2) The Authority shall within fourteen (14) days of the commencement of a quarter of the year advise the contractor or its subcontractor, licensee or any other entity of which contracts have been chosen for review by the Authority.

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

*Employment and Training Plan and Succession Plan*

Employment and  
Training Plan

**18.** (1) The Employment and Training Plan submitted by a contractor or its-subcontractor, licensee, or any other entity to the Authority with respect to a upstream petroleum operations shall include;

(a) a forecast of the hiring and training needs of the contractor or its subcontractor, licensee, or any other entity which among others contain;

(i) a specification of the skills needed;

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

(iii) the available list of industrial attachment opening;

(iv) the specific training requirements; and

(v) the anticipated expenditure that will be incurred by the contractor or its sub-contractor, licensee, or any other entity in implementing the Employment and Training Plan and Succession Plan as forecasted;

(b) a time frame within which the contractor, licensee, or any other entity will provide employment opportunities for the Kenyan workforce for each phase of the upstream petroleum operations to enable members of the Kenyan workforce prepare for such opportunities; and

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

(2) The contractor or its subcontractor, licensee, or any other entity shall provide to the Authority a quarterly report on:

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

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

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

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

(5) Where Kenyans are not employed because of lack of expertise, the contractor or its sub-contractors, licensee, or any other entity shall ensure, to the satisfaction of the Authority that every reasonable effort is made to provide training to Kenyans in that field locally or elsewhere.

Succession Plan

**19.** (1) A contractor, licensee, or any other entity shall, as part of the Employment and Training Plan, submit to the Authority a Succession Plan for any employment position that is occupied by a non-Kenyan 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 Kenyans to understudy the requirements of the position held by a non-Kenyan for a period determined by the Authority on a case-by-case basis after which the position occupied by the non-Kenyan shall be assumed by the Kenyan.

Middle and junior level positions

**20.** (1) A contractor or its sub-contractors, licensee, or any other entity engaged in petroleum activities shall employ only Kenyans in junior level or middle level positions.

(2) For the purpose of sub-Regulation (1), "junior or middle level positions" include the position of foreman, supervisor, technicians or any corresponding position designated as such.

*Programme for Research, Research Development and Budget Plan*

Programme for research, research development and budget

**21.** A contractor or its sub-contractors, licensee, or any other 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 Authority for the promotion of education, practical attachments, training and research and research development in the country in relation to its overall work programme and activities.

Research, Research Development and Budget Plan

**22.** (1) A Research, Research Development and Budget Plan submitted by a contractor or its sub-contractor, licensee, or any other entity to the Authority with respect to a upstream petroleum operations 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, Research Development and Budget Plan ;
- (c) provide for public calls for proposals for research and development initiatives associated with the activities of the contractor or its sub-contractor, licensee, or any other entity and criteria for selecting proposals which qualify for support.

(d) provide the manner in which they shall collaborate with the Energy and Petroleum Institute, Kenyan Universities and other Kenyan training, learning and research institutes in the area of research and research development.

(2) The contractor, licensee, or any other entity shall

(a) update its Research, Research Development and Budget Plan annually, and

(b) submit the updated Plan to the Authority for review and approval.

*Technology transfer programmes and reports*

National Plan on  
Technology  
Transfer

**23.** The Authority shall, in consultation with the relevant Ministries, Departments and Agencies identified by the Authority, shall develop and publish the National Plan on technology transfer with respect to the petroleum industry.

Technology  
Transfer  
programme

**24.** A contractor or its sub-contractor, licensee, or any other 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 Kenya in relation to the upstream petroleum industry.

Technology  
Transfer Plan

**25.** A Technology Transfer Plan submitted by a contractor or its sub-contractor, licensee, or any other entity shall include a programme of planned initiatives aimed at promoting the effective transfer of technologies from the contractor or its sub-contractor, licensee, or any other entity to an indigenous Kenyan company, established centers of excellence or citizen.

Support for  
technology transfer  
to indigenous  
Kenyan companies

**26.** (1) A contractor or its sub-contractor, licensee, or any other entity shall support and facilitate technology transfer as regards the formation of joint ventures, partnering of licensing agreements between indigenous Kenyan companies or citizens and foreign contractors and service companies or supply companies.

(2) The Cabinet Secretary 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 Kenyan companies which establish factories and production units in the country.

(3) For the purposes of sub-Regulation (2), the Government agencies consulted shall collaborate with the Authority.

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

Technology  
Transfer Report

**27.** A contractor or its sub-contractor, licensee, or any other entity shall submit a Technology Transfer report annually to the Authority stating the technology transfer initiatives being pursued and the current results in relation to the Technology Transfer Plan.

*Local insurance services content*

Insurance and  
reinsurance

**28.** (1) A contractor or its sub-contractor, licensee, or any other entity engaged in upstream petroleum operations in the country shall comply with the provisions of the Insurance Act, Cap 487.

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

Approval of  
offshore insurance

**29.** (1) A person who seeks to obtain an insurance offshore service relating to upstream petroleum operations in the country shall obtain a written approval of the Insurance Regulatory Authority.

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

*Legal and Financial services content*

Legal services

**30.** A contractor and its sub-contractor, licensee or any other entity that requires legal services in the country shall retain only the services of a Kenyan legal practitioner or a firm of Kenyan legal practitioners whose principal office is located in the country.

Legal Services Plan

**31.** The Legal Services Plan submitted to the Authority shall include

- (a) a comprehensive report on legal services utilized 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 Kenya Shillings and United States Dollars.

Financial services

**32.** (1) A contractor or its sub-contractor, licensee, or any other entity that requires financial services with respect to upstream petroleum operations shall retain only the services of a Kenyan financial institution or organization.

Financial Services  
Plan

**33.** A contractor, licensee, or any other entity who has submitted a Financial Services Sub-Plan to the Authority shall specify the following:

- (a) the financial services utilized 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 utilized in the preceding six months, the nature of financial services provided and the expenditure for the financial services made by the contractor or its sub-contractor, licensee, or any other entity.

Operation of bank account in Kenya

**34.** (1) A contractor or its sub-contractors, licensee, or any other entity shall maintain a bank account with a Kenyan bank and transact business through banks in the country.

(2) For the purpose of these Regulations, "a Kenyan bank" means a bank licensed by Central Bank of Kenya to conduct to conduct banking business.

*Local content performance reporting*

Requirement for submitting local content performance report

**35.** (1) A contractor or its sub-contractor, licensee, or any other entity shall within forty-five (45) days of the beginning of each year after commencement of petroleum activities submit to the Authority 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 Authority 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 Kenyans and foreigners as well as their job positions and remuneration.
- (c) show the training, industrial and technology transfer achievement availed to Kenyans and foreigners.
- (d) show the actual procurement of goods, works and services executed.
- (e) any other information the Authority may require.

Assessment of Performance Report

**36.** (1) The Authority shall, within fifty (50) 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 and its sub-contractor, licensee, or any other entity shall allow an employee or a designated agent of the Authority access to their facilities, documents and information as the Authority may require.

Requirement of third party reporting

**37.** (1) A contractor or its sub-contractors, licensee, or any other entity shall ensure that its partners, contractors, subcontractors and any other entity are contractually bound to report local content information to the contractor, licensee, or any other entity and, if requested, to the Authority.

(2) A contractor or its sub-contractor, licensee, or any other entity shall allow an agent or official designated by the Authority access to the records of the contractor, licensee, or any other entity for purposes of assessment and verification of the local content information reported to the contractor, licensee, or any other entity or the Authority.

Establishment of a Common Qualification System

**38.** (1) The Authority shall, in consultation with industry stakeholders, establish a Common Qualification System.

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

Object of the Common Qualification System

**39.** (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 sub-Regulation (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, licensee, or any other entity;
- (c) the tracking and monitoring of performance and provision of feed back; and
- (d) ranking and categorization of petroleum service companies based on capabilities and local content.

Availability of Information

**40.** (1) The Authority shall maintain a database that shall contain details of local suppliers, service providers and other entities that meet the local content qualification.

(2) A person may during working hours

- (a) access records that relate to local content which is kept by the Authority 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.

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

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

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

Public education  
and sensitization

**41.** The Authority shall ensure that public education and sensitization activities are undertaken to educate contractor, licensee, or any other entity, the public and industry stakeholders about the Local Content policy and philosophy and to ensure the implementation of these Regulations.

Communication of  
local content  
policies

**42.** (1) A contractor or its sub-contractor, licensee, or any other entity shall

(a) communicate local content policies, procedures and obligations to any person engaged by that contractor or its sub-contractor, licensee, or any other entity to perform an aspect of a upstream petroleum operations, and

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

(2) Notwithstanding sub-Regulation (1), a contractor, licensee, or any other entity shall make available the local content policies, procedures and obligations of that contractor, licensee, or any other entity available on their respective websites.

Electronic filing of  
documents

**43.** (1) The Authority 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 provide for

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

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



Establishment of  
guidelines and  
procedures by the  
Authority

**44.** (1) The Authority shall establish and constantly review guidelines and procedures for the effective implementation of these Regulations.

(2) Without limiting sub-Regulation (1), the Authority shall, in consultation with relevant institutions, issue guidelines for compliance by a contractor or its sub-contractor, licensee, or any other entity in respect of the following:

- (a) requirements and targets for the growth of research and development of the upstream 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 upstream petroleum related service otherwise imported into the country; and
- (d) generally for the implementation of these Regulations.

Local Content  
monitoring

**45.** The Authority shall monitor and investigate the activities of each contractor or its sub-contractor, licensee, or any other entity to ensure the achievement of the purpose of these Regulations within the framework of the national energy and petroleum policy on local content.

Investigations

**46.** (1) The Authority may for the purposes of enforcing these Regulations initiate an investigation into an activity of a contractor or its subcontractor, licensee, or any other entity.

- (2) Without limiting sub-Regulation (1), the Authority may launch investigations to ensure that
- (a) the Kenyan company principle is not diluted by the operation of a front; or
  - (b) bid rigging and cartelization are avoided in the procurement process.

Offences and  
penalties

**47.** (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 five hundred thousand shillings or to a term of imprisonment of not less than three (3) years, or both.

(2) A citizen who acts as a front or connives with a non-indigenous or citizen or company to deceive the Authority as representing an indigenous Kenyan 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 million shillings or to a term of imprisonment of not less than five years, or both.

(3) A person who connives with a citizen or an indigenous Kenyan company to deceive the Authority as representing an indigenous Kenyan 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 five hundred thousand shillings or to a term of imprisonment of not less than three years, or both.

(4) A person who fails to:

- (a) support and carry out a programme in accordance with the National Plan on technology transfer; or
- (b) support and facilitate technology transfer as regards the formation of joint ventures, partnering of licensing agreements between indigenous Kenyan companies or citizens and foreign contractors and service companies or supply companies; or
- (c) ensure that its partners, contractors, subcontractors and other entities report local content information to the contractor; or
- (d) communicate local content policies, procedures and obligations to any person engaged by that contractor, licensee, or any other entity to perform an aspect of upstream petroleum operations;

is in contravention of these Regulation and is liable to pay to the Authority an administrative penalty of five hundred thousand shillings 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; or
- (b) comply with the minimum local content levels for any upstream petroleum operations; or
- (c) establish and implement a bidding process;
- (d) comply with regulations 13(1) and 13(5); or
- (e) employ only Kenyans in junior or middle level positions; or

- (f ) insure the insurable risks relating to petroleum activities in the country through an indigenous brokerage firm; or
- (g) obtain the written approval of the Insurance Regulatory Authority when seeking to obtain an insurance offshore service relating to a upstream petroleum operations;or
- (h) retain only the services of a Kenyan legal practitioner or a firm of Kenyan legal practitioners; or
- (i) operate a bank account in Kenya with a Kenyan Bank;

is in contravention of these Regulations and is liable to pay to the Authority a figure not less than one million Kenya Shillings;

- (k) in the case of a contractor, where the contravention continues after the time specified for remedying the contravention, the Authority 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

- (1) in the case of a subcontractor, licensee or any other entity, where the contravention continues after one time specified for remedying the contravention, the Authority shall expunge the name of the subcontractor, licensee or any other 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 Authority a penalty of not less than one million Kenya shillings 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, licensee, or any other entity that
  - (a) carries out petroleum activities without the required local content requirement; or
  - (b) fails to submit a Local Content Plan 8; or
  - (c) fails to satisfy the content requirement of a Local Content Plan; or
  - (d) fails to inform the Authority of each proposed contract or purchase order

is in contravention of these Regulations and is liable to pay to the Authority a penalty of five percent of the value of the proceeds obtained from the upstream petroleum operations in respect of which the breach is committed but that penalty shall not exceed five million Kenya Shillings or to the cancellation of a contract in respect of the upstream petroleum operations.

(8) A penalty required to be paid under sub-Regulations (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 of Kenya and recoverable by the Authority from the holder in a Court of competent jurisdiction.

Complaints to the  
Energy Petroleum  
Tribunal

**48.** A person aggrieved by the decision of the Authority in relation to the implementation of these Regulations may lodge an appeal within thirty (30) days with the Energy and Petroleum Tribunal who shall within Sixty (60) days of receipt of the Appeal make a decision on it in accordance with section 20 of the Energy Bill, 2014.

Transitional  
provisions

**49.** Within three (3) months after the commencement of these Regulations, a contractor, licensee, or any other entity engaged in a petroleum activity shall comply with these Regulations.

**FIRST SCHEDULE**

**MINIMUM LOCAL CONTENT IN GOODS AND SERVICES**

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

	<b>Item</b>	<b>Start</b>	<b>5 Years</b>	<b>10 Years</b>
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, flare brooms, storage tanks, pressure vessels umbilical	20%	50%	80%	Tonnage
2.4 Topsides module (process modules and storage modules)	10%	30%	50%	Tonnage
2.5. 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 Kenya)	10%	50%	100%	Tonnage

Description	Start	5 Years	10 Years	Measured Unit
2.9 Utilities module or packages	10%	20%	50%	Tonnage

### 3. MATERIALS AND PROCUREMENT

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%	40%	60%	Number
3.6 Drilling mud-baryte bentonite	20%	50%	80/10	Tonnage
3.7 Cement	60%	80%	90%	Tonnage
3.8 Heat exchangers 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 Wireline services (electric open holes, electric cased hole, slickline)	10%	50%	60%	Man-Hour
4.4 Logging while drilling (LWD) (direction and inclination or Gamma ray)	10%	50%	70%	Man-Hour

Description	Start	5 Years	10 Years	Measured Unit
4.5 Production or drilling service	30%	60%	85%	Man-Hour
4.6 2D Seismic data acquisition services	10%	60%	85%	Length
4.7 Well overhauling or stimulation services	30%	60%	95%	Man-Hour
4.8 Wellhead services	30%	60%	85%	Man-Hour
4.9 Directional surveying services	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 hardbanding, 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 floating or jackup production unit	10%	20%	50%	Spend
4.23 Rental of drill pipe	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%	60%	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 acquisition services	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, Biostratigraphy, fluid characterization, PVT, core analysis, flooding)	20%	50%	80%	Spend
6.6 Mudlogging services	20%	30%	50%	Spend
6.7 coring services	30%	60%	90%	Spend
6.8 Well Testing services	20%	40%	55%	Spend
6.9 drilling 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 Drilling rigs (land)	40%	50%	70%	Man-Hour
6.12 Work-over rigs (offshore)	20%	50%	70%	Spend
6.13 Snubbing services	10%	30 %	80%	Spend

6.14 Liner float, hangers and running equipment services	10%	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 Waste water 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 modeling 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)	25%	35%	45%	Man-Hour
10.8 Subsea pipeline protection Services	10%	40%	70%	Man-Hour
10.9 Installation of subsea packages	10%	30%	60%	Man-Hour
10.10 Mooring system services	60%	70%	90%	Man-Hour