

Summary on Guyana's Local Content Policy

February 2020





Guyana stepped into the Energy world spotlight in May 2015 when ExxonMobil announced the discovery of more than 90 metres of high-quality, oil-bearing sandstone reservoirs about 200 km off its coastline. In January 2020, ExxonMobil the first driller to develop Guyana’s offshore block, began pumping the first phase of its projects with daily output of about 120,000 barrels. Exxon expects to raise that output to 750,000 per day on multiple phases by 2025, putting this single project above the daily output of India and some of the mature producing countries in the region. To put that in financial terms, that is more than USD \$40 billion at today’s international crude price.

With fresh discoveries in January 2020, there has been an influx of related upstream, midstream and downstream operators, service providers and suppliers from across the globe to Guyana. However, Guyana has for some time posited that it will learn from the successes and mistakes of the more mature producers and protect the Guyanese people and the Guyanese economy. The conversation of a Local Content Policy has long been on the lips of the Government of Guyana, key stakeholders and investors alike. Finally, the much anticipated Local Content Policy has been published. Here are the key points.



Overview:

- i. The policy's starting point is that it is subject to further revisions and is not a final position. Further, it is the intention of the Government of the Cooperative Republic of Guyana ("GCRG") to support this policy and any revised policy with a legislative framework at some time in the foreseeable future. For the moment, the implementation of the policy depends on the willingness and good-faith by all relevant parties.
- ii. Secondly the policy at this time, **only applies to the upstream petroleum sector.**
- iii. The stated policy does not give quantitative ratios or percentages of required employment of Local Persons and/or the use of Guyanese Suppliers. However, the policy does place the onus of the development, production and submission of a "Local Content Plan" on the Operators.
- iv. The Minister responsible for Petroleum ("the Minister") is given the discretion and/or authority to approve, reject and or make suggestions for amendments to the submitted Local Content Plan.



10,000+

Total number of lawyers

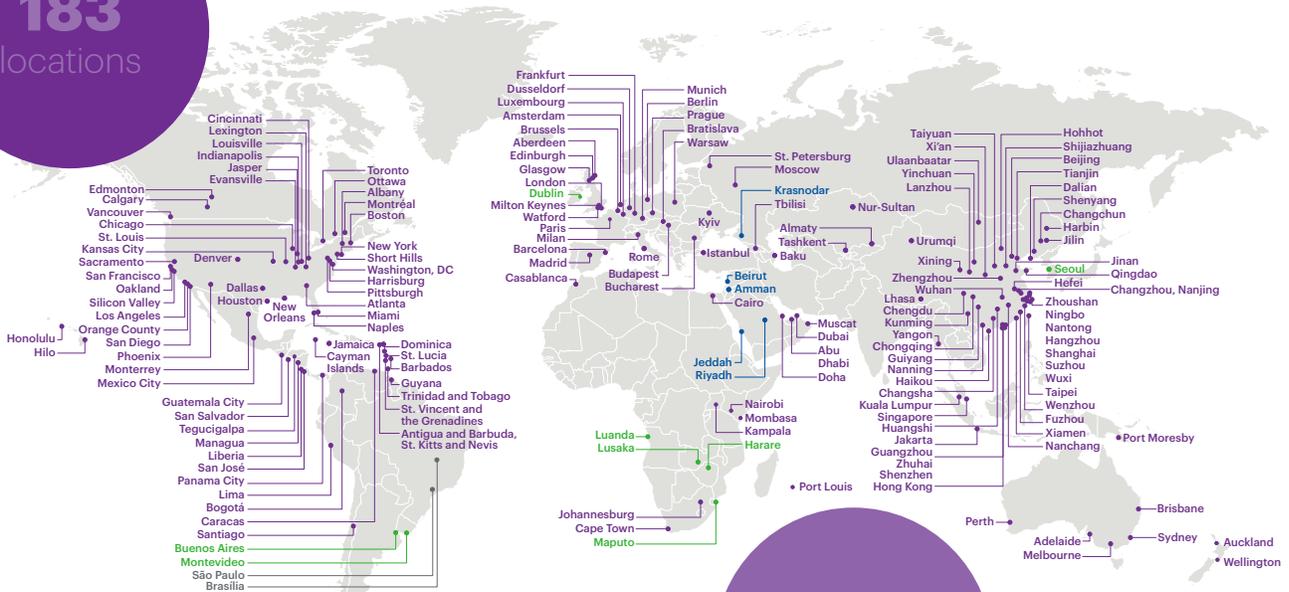
12,700+

All timekeepers

18,500+

Total number of people

183
locations



Locations in purple represent Dentons offices.
 Locations in blue represent associate firms, offices and special alliances.
 Locations in green represent proposed combinations that have not yet been formalized.
 Locations in gray represent Brazil Strategic Alliance.

75
countries

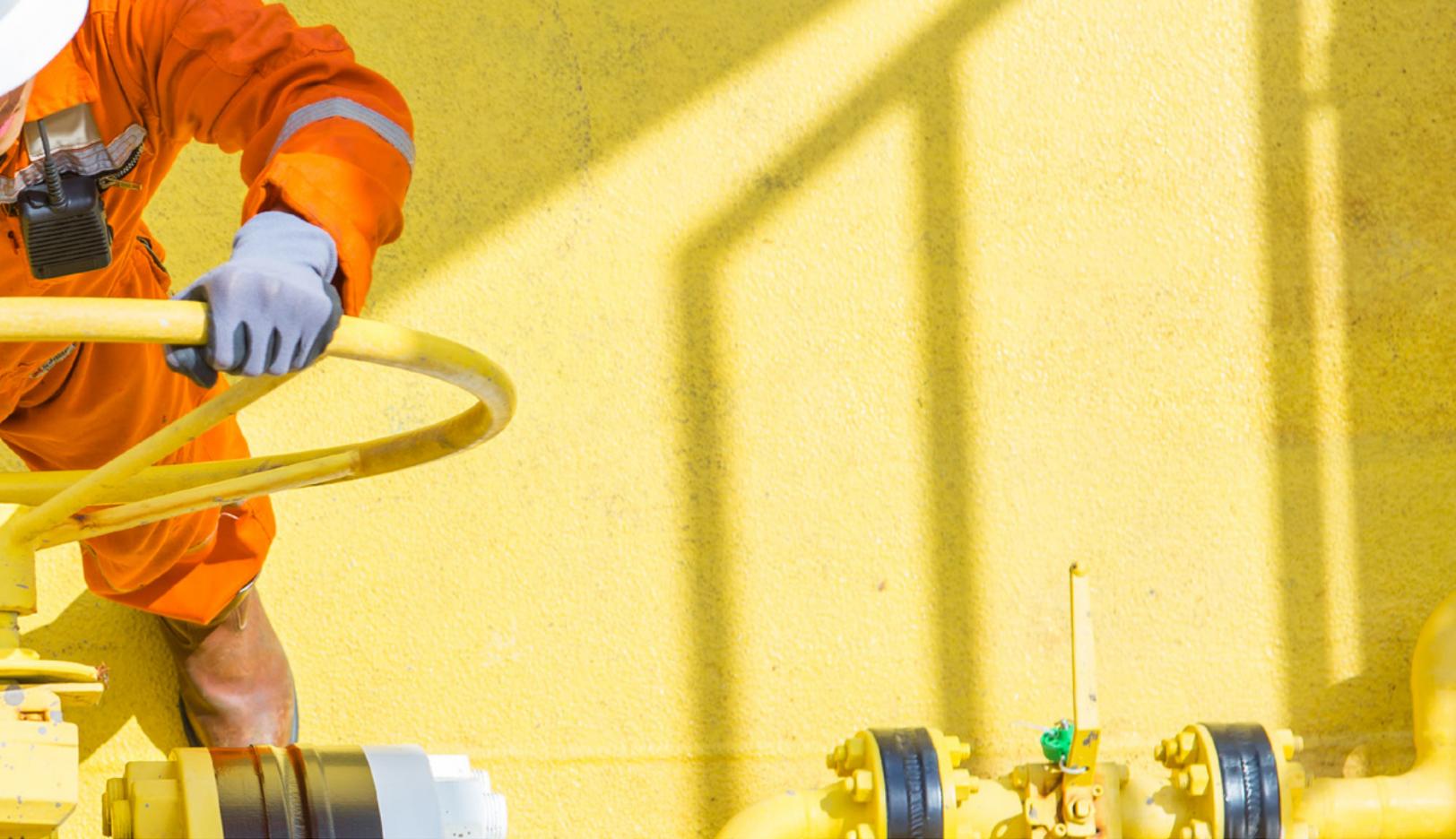


The Local Content Plan:

An Operator will submit to the Minister:

- i. Within 60 days prior to the beginning of each year, a yearly Local Content Plan which ought to address:
 - a. all of the Operator's petroleum related work and activities in the block, sub-divided between different petroleum projects to enable identification of the project-specific estimated utilization of Guyanese Persons, Suppliers and Sub-contractors, the training of Guyanese Persons, the capacity building initiatives to support the objectives of Government Policy for Local Content in the petroleum sector;
 - b. The names of prospective major contracts, which because of the Local Content opportunities they offer, will require bidders (ie. Primary Contractors) to submit, and then execute, a Local Content Plan as part of contract delivery;
 - c. The names of major contracts already awarded that remain in their execution phase during the forthcoming year, and the associated names of the Primary Contractors selected to execute their own Local Content sub-plan as part of contract delivery obligations¹ ;
 - d. The Operator's Local Content Management Philosophy and Principles – This must state the Operator's key principles for maximizing the benefits and retaining value from Guyanese petroleum resources consistent with the GCRG's policy, including Employment and Training of Guyanese, and the Acquisition and Development of Guyanese Resources;
 - e. Organization for Local Content – the positions within the Operator which are responsible for the roles and activities relating to Local Content including decision making, accountability, operational management, program activities, monitoring and reporting. Should also include Local Content steering or advisory committees, groups or organizations contributed to, or set up by the Operator;

¹ The criteria for selection of contracts that will require the Primary Contractor to execute a Local Contract sub-plan shall include prior considerations by the Operator or whether the contract scope affords significant opportunities for Guyanese Persons and Guyanese Suppliers.



- f. A summary description of the work activities for the current phase of operations for each of the Operator's projects across all applicable blocks and projects, and also a detailed description of work activities associated with each specific project, and where applicable by discrete activity components;
- g. Local Content Objectives – which shall include objectives to be achieved by the end of the current phase of operation and objectives to be achieved by the end of the forthcoming year (or part thereof);
- h. Identification of Local Content Opportunities – to describe the process and evidence of efforts of the Operator to assess the supply of skilled, qualified and experienced Guyanese Persons and capable and competitive Guyanese Suppliers in meeting the needs of the Operator.
- i. Local Content Opportunities in Contracting Strategies – for example, unbundling or bundling contract scopes so as to afford opportunities to Guyanese suppliers; categories of goods and services that could be tendered to only Guyanese or CARICOM suppliers; and inviting consortia, alliances or other forms of partnering between supplier firms to tender for contracts to afford these opportunities to Guyanese Suppliers;
- j. Local Procurement Opportunities – how assessments have been used to determine the sufficiency of Guyanese Suppliers;
- k. Local Content Capacity Building – informed assessments of the Guyanese labour and supplier market and project demand and what programs can be implemented to realize opportunities for the forthcoming year, and for 2 and 5 years out;
- l. Local Content Utilization Levels – to be submitted in the format set out in Table A1, Appendix A to the policy document and should address:
 - i. Estimated Guyanese Persons in the workforce;
 - ii. Estimated Guyanese received training hours;

- iii. Estimated number of Guyanese Suppliers;
 - iv. Estimated expenditure with Guyanese Suppliers;
 - v. Anticipated Tenders from Guyanese Suppliers with the required skill and quality of product;
 - vi. Estimated investment in Productive Capital Assets in Guyana that support the Government's Local Content policy;
 - vii. Year 2 – estimated Monetary Value Contributed to the Guyanese economy from expenditure on services; and
 - viii. Year 2 – estimated Monetary Value Contributed to the Guyanese economy from expenditure on goods.
- m. Local Content Activities and Programs – to be completed in the form of A2 of Appendix A to the policy document, which is meant to set out capacity development initiatives to support local education, national training institutions and development;
- n. Employment and Training for Guyanese – yearly estimates in the roles/crafts/expertize set out in this section and to be completed in Table A1 of Appendix A to the policy document;
- o. Acquisition and Development of Guyanese Resources – to be completed in Tables A2 and A3 of Appendix A to the policy document;
- p. Procurement Procedures – policy for fair and adequate opportunities for Guyanese Suppliers and sub-contractors in the supply of goods and services and with the principle of Government policy for first consideration to Guyanese Suppliers when capable and competitive.
- q. Role of Primary Contractors; and
- r. Local Content Measurement and Reporting.
- ii. Within 21 days from receipt of the Operator's Local Content Plan, the Minister shall issue an invitation and shall meet with the Operator to discuss the effectiveness of the Local Content Plan and agree to the final information in the Local Content Plan and to any modifications to ensure the Plan's consistency with this policy and with the Operator's contractual obligations under the applicable Petroleum Agreement/s.
- iii. Within 21 days from the meeting with the Minister, the Operator shall submit to the Minister a final Local Content Plan for approval, inclusive of any agreed modifications.
- iv. Within 14 days from the receipt by the Minister of the final Local Content Plan with agreed modifications, the Minister shall determine its approval.
- Once the Local Content Plan is approved by the Minister, the Operator is then required to submit, at a minimum, further half-year and end-of-year Local Content Reports to the Minister.
 - Of note in the "Definitions" section of the Policy, is that any Company in which a Guyanese citizens holds 51% or more of the shares or a 51% or more partnership share, is considered a Guyanese-Owned Company. However, a Guyanese Registered Company must be one that is registered in Guyana with the Guyana Revenue Authority, and where the offices, plant or facilities of the company that relate to the supply, distribution or manufacture of goods or the provision of services for petroleum operations in Guyana are located in Guyana. It is not clear however, from the Policy Document whether a Guyanese-Owned Company, which is not registered in Guyana qualifies as a Guyanese Supplier for the purposes of the Local Content Plan.
 - Another categorization of note is the grouping of Guyanese Suppliers as follows:
 - Group A – categories of goods and services where evidence shows the presence of one or more Guyanese Suppliers with the required capability, capacity and competitiveness sufficient to be invited to provide an expression of interest or otherwise engage in a tender process.
 - Group B - categories of goods and services where evidence shows the absence of any Guyanese Suppliers with the required capability, capacity and competitiveness sufficient to be invited to provide an expression of interest or otherwise engage in a tender process. In this instance the Operator can justify single or sole sourcing for reasons fully consistent with good industry practice.

Observations:

The GCRG in its introduction to the Policy, states that it sought to develop a policy that was fit for purpose and an optimal alignment between policy goals to stimulate the Guyanese economic benefits, maintain a positive investment climate and assure the optimal raising of national revenues for economic transformation.

Whilst the Policy Document, through its content and Appendices provides a somewhat comprehensive framework for the requirement of the Local Content

Plan itself, the Policy leaves quite a bit of room for interpretation by the Minister responsible for Petroleum. The Minister seems to have an absolute discretion as to whether a Plan is in conformity with the policies of the GCRG and/or achieves the stated intent of the Policy Document as no required quantitative values, not even at a minimum, have been stipulated.

Contacts

Dentons

210 New Market Street
Georgetown,
Guyana
T: 011 592-623-2260



Dustin Delany
Managing Partner
dustin.delany@dentons.com



Yoshodra Rampersaud
Partner
yoshodra.rampersaud@dentons.com



Shalini Rose Campbell
Partner
shalini.campbell@dentons.com



Satcha Kissoon
Partner
satcha.kissoon@dentons.com



Sarika Gajraj
Attorney at Law
sarika.gajraj@dentons.com



Charles Fung-a-Fatt
Attorney at Law
charles.fungafatt@dentons.com

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