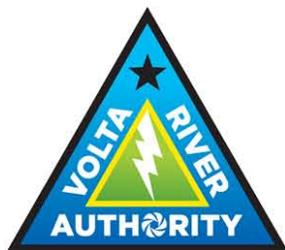


# LOCAL CONTENT POLICY DOCUMENT



**VOLTA  
RIVER  
AUTHORITY**

Approved, April 2012

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# **VOLTA RIVER AUTHORITY**

## **LOCAL CONTENT POLICY**

### **1.0 PREAMBLE**

The Volta River Authority (VRA) has as its core mandate, the generation of electricity in Ghana. It is by far the largest power utility in Ghana that has supplied electricity, which serves as the backbone for industry. As an industry, the VRA realizes that Local Content is very important in its operations which needs to be maximized. The need for Ghana to develop a Local Content Policy/Legislation is overdue, and it is crucial and relevant at this point in time of the nation's development when the country appears to import almost everything.

VRA as a strategic industry has positioned itself to develop a Local Content Policy for its operations. It is the hope of VRA that other power utilities and related industries including manufacturing industries that constitute an important segment of its customers/stakeholders will come on board in due course.

The VRA is conscious of the fact that the Government/Ministry of Energy (GNPC) have already developed a Local Content and Local Participation Policy Framework exclusively for the emerging Oil and Gas industry currently awaiting passage into law. It is envisaged that a National Content Policy covering all Sectors will be developed in due course for which the content of the VRA policy could be vital input.

### **2.0 POLICY RATIONALE**

The rationale of this Policy is stated in terms of the following:

- To create value in-country through deliberate utilization of Ghanaian human and material resources and related services.
- To achieve an acceptable degree of local participation, control and financing by citizens of Ghana, in any Joint Venture arrangement that promotes and enables the optimal use of in-country human resources, materials and services.

- To comply with the relevant provisions of the Public Procurement Act 2003 (Act 663) namely Section 98, which defines Local Content as “a product originating from Ghana” and “Domestic Supplier” “as a citizen who is a supplier or a corporate body with majority shareholding owned by citizens”.
- To ensure that quality is not compromised but enhanced in accordance with industry best practices and international standards.

### **3.0 POLICY OBJECTIVES**

The primary objective of this Policy is to promote and sustain industrialization through the utilization and optimization of the indigenous resources of the country.

The specific objectives of this policy framework are:

1. To outline Local Content issues arising out of VRA’s operations.
2. To provide broad guidelines or ideals meant to guide or assist various stakeholders in taking prudent decisions in the implementation of Local Content concept within VRA.
3. To provide financial empowerment to VRA’s local contractors and suppliers.
4. To promote efficient implementation of the Local Content policy in such a manner that will protect the interest of the Authority.
5. To generally promote the indigenization of knowledge, expertise and technology in VRA.
6. To stimulate the participation of Ghanaians in the value and supply chain of VRA’s operations.
7. To establish a Local Content Implementation/Monitoring Unit (LCIMU) that will set targets proportional to current capabilities and realistic potential for increase, against baseline of local content for each project or procurement of goods and services.
8. In order to promote local participation in Foreign Direct Investments (FDIs), a Joint Venture arrangement shall be put in place, where practicable, to enable VRA obtain at least 5% equity share in the case of goods and at least 10% equity in the case of services. Such companies “shall operate from Ghana” (“shall be incorporated under Companies Code 1963 Act 179”).<sup>1</sup>

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<sup>1</sup>The 5% and 10% equity shares provided for goods and services respectively, take into consideration the huge capital that may be required for such projects.

9. To achieve at least 90% local employment for Ghanaian citizens within 3 years after the operationalization of any major VRA Project.
10. To empower VRA's vendors to develop capabilities to produce goods and services domestically to compete with international businesses.
11. To facilitate the creation of complementary industries that will help sustain VRA's operations and leadership in the power sector.
12. To achieve and maintain a degree of influence or control by VRA over its development initiatives.
13. To provide a rigorous and transparent monitoring and reporting system to ensure delivery of the Policy objectives.

#### **4.0 POLICY STATEMENT**

The VRA, its contractors, suppliers and stakeholders involved in any projects, operations, activities or transactions in Ghana shall consider Local Content as an important element in their project development and management.

#### **5.0 SCOPE OF APPLICATION**

This Policy covers the VRA, its subsidiaries, contractors, subcontractors and other entities involved in any projects, operations, activities or transactions in Ghana.

#### **6.0 OPERATING RULES**

##### **6.1 Identification of opportunities for Local Content**

1. At the inception of any project, the VRA, its subsidiaries, contractors and suppliers shall assess the sustainability and continuous upstream growth of the project to allow feasibility of Local Content and development spend taking into consideration local and regional aggregate demand/supply.
2. A Schedule requiring tenderers to deliver a minimum level of Local Content (in percentage terms) and measures to develop the capabilities and competitiveness of producers of Ghanaian goods, works and services shall be included in tendering documents for new projects.

3. In tendering for any contract and before carrying out any project, the contractor shall submit a Local Content Plan demonstrating compliance with the provisions of this policy.
4. A Local Content Plan shall contain the provisions intended to ensure that:
  - a) First consideration shall be given to services provided from within Ghana and to goods manufactured in Ghana.
  - b) Ghanaians shall be given first consideration for training and employment in the work program for which the plan was submitted.
  - c) Any collective agreement entered into by any contractor or any other body submitting the Local Content Plan jointly with any Association of employees shall comply with the provisions of this policy.
5. Any Local Content Plan submitted by any contractor or its joint venture partner shall contain detailed plan on how the contractor or its joint venture partner intends to ensure the use of local raw materials, services and locally manufactured goods, where such raw materials, goods and services are timely available and meet the specifications of the Authority.
6. Any Local Content Plan submitted by a contractor shall contain a detailed and satisfactory plan setting out how the contractor will give first consideration to Ghanaian local goods, works and services. The Plan should give specific examples showing how Ghanaians will be given first consideration and indicate the criteria for the assessment and evaluation of tenders for goods, works and services required by the project.

## **6.2 Development and support of local vendors, contractors and service providers**

1. VRA shall provide support for the successful implementation of this Policy through the following:
  - a. To collaborate with other relevant institutions for the passage of relevant laws and regulations in support of this Policy.
  - b. Provide incentives for attracting foreign direct investment locally or to partner with local industry e.g. assurance of ready market for products.
  - c. Set up facilities such as machine tools shop (e.g.in the VRA Centre of Excellence) for local manufacture of equipment and materials regularly used by the Authority.

- d. Provide education and other training facilities to the relevant industries in Ghana and sub-region.
  - e. Enforce this Policy and any subsequent Regulation on Local Content by the Authority.
  - f. Provide a market for goods and services:
    - i. local market
    - ii. enter into relevant agreement with utilities within Ghana and sub-region for expanded market.
2. In order to promote local participation in Foreign Direct Investments (FDIs), a Joint Venture arrangement shall be put in place, where practicable, to enable VRA obtain at least 5% equity share in the case of goods and at least 10% equity in the case of services. Such companies “shall operate from Ghana” (“shall be incorporated under the Companies Code 1963 Act 179”).<sup>2</sup>
  3. Workshops, conferences, seminars, symposia and other appropriate public fora shall be organized for the benefit of contractors, the public and other stakeholders to enhance the implementation of the provisions of this policy.
  4. In order to ensure increased financial benefits to Ghanaians, all contractors, sub-contractors of the Authority shall as far as practicable use goods and services produced or provided in Ghana for their operations in preference to foreign goods and services. Such contractors and sub-contractors shall give priority to the purchase from citizens of Ghana, local products and services that are competitive in terms of price, quality and timely availability.
  5. Where applicable, appropriate mobilization fund/advance payments against bank guarantee shall be provided for qualified contractors.
  6. VRA, its subsidiaries, contractors and sub-contractors shall consider Local Content when evaluating any tender where the tenders (both foreign and local) are within 1% of each other at commercial stage and the tender containing the highest level of Local Content shall be selected provided the Local Content in the selected tender is at least 5% higher than its closest competitor.

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<sup>2</sup>The 5% and 10% equity shares provided for goods and services respectively, take into consideration the huge capital that may be required for such projects.

7. The award of contract shall not be solely based on the principle of the lowest tenderer where a Ghanaian indigenous company has capacity to execute such job and the company shall not be disqualified exclusively on the basis that it is not the lowest evaluated financial tenderer provided the value does not exceed the lowest tender price by 10%.<sup>3</sup> [Details on tendering, evaluation procedures and margin of preference as provided for under Sections 59(4), and 60 (2) of the Public Procurement Act 2003, (Act 663) and any Regulations there under shall apply to this Policy].
8. The detailed application of a Margin of Preference to achieve a measure of local content shall conform to the specific terms of application contained in the tender document and any guidelines that may be approved by the Public Procurement Authority. Public Procurement Act 2003, (Act 663) Section 60 (2) of the Act deals specifically with Margin of Preference.
9. This policy therefore aims at achieving the following goals within time and quality:
  - a. exploit the country's resource endowment in an environmentally sustainable manner;
  - b. attract increased local value-added investment in the industrial sector;
  - c. create job opportunities in the industrial sector;
  - d. facilitate technology transfer;
  - e. domesticate knowledge, expertise and technology in industry.
10. International or multinational companies awarded contracts by VRA shall demonstrate that a minimum of 50% of the equipment deployed for execution of the works are owned by Ghanaians.
11. All contractors and sub-contractors engaged in any form of business, operations or contracts on projects shall insure all insurable risks related to its business, operations or contracts with an insurance company, or through an insurance broker registered in Ghana in accordance with Section 37 (1a, b &c) of the Insurance Act 2006 (Act 724).
12. No insurance risk in Ghana affecting property or operation of the Authority shall be placed offshore without the written approval of the National Insurance Commission which shall ensure that Ghanaian local capacity has been fully exhausted. in accordance with Section 37 (1a, b &c) of the Insurance Act 2006 (Act 724).

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<sup>3</sup>The 10% is consistent with the provision in the Ministry of Energy Draft Local Content and Local Participation Policy Framework as well as the Draft Regulations on the Public Procurement Act 2003 (Act 663), under Margin of Preference.

13. All contractors and other entities engaged in any operation, business or transaction in the Authority requiring legal services shall give preference to Ghanaian legal practitioner or a firm of Ghanaian legal practitioners whose office is located in any part of Ghana. Where it becomes necessary to engage the services of a foreign legal firm with expertise not available in Ghana, VRA lawyers shall be attached to the firm to enable them acquire expertise from the foreign firm.
14. All contractors and other entities engaged in any operation, business or transaction in Ghana requiring financial/consulting services shall give preference to Ghanaian practitioners/institutions except where, to the satisfaction of LCIMU this is impracticable.

### **6.3 Management of Local Content Realization**

1. Compliance with Local Content policy and promotion of Local Content development in VRA shall be a major criterion for award of contracts.
2. Standards and certifications applicable to the provision of goods and services shall be in accordance with guidelines of the Ghana Standards Authority, except where it is otherwise stated.
3. VRA, its subsidiaries, suppliers, contractors or subcontractors shall maintain a tendering process for acquiring goods, works and services which shall give full and fair opportunity to local contractors and companies.
4. Each contractor shall carry out a program in accordance with the VRA's own plans and priorities, for the promotion of technology transfer to Ghanaians in relation to its activities.
5. Ghanaians shall be given the first consideration for employment and training in any project executed by any contractor for the VRA.
6. VRA shall ensure that the contractor maintains a reasonable number of personnel from the areas it has significant operation where practicable.

7. The plan submitted by any contractor for any project shall contain an employment and training (E and T) plan/program which shall include;
  - a) An outline of:
    - i. Hiring and training schedule of the contractor with the breakdown of the skills needed;
    - ii. Anticipated skill shortages in the Ghanaian labour force,
    - iii. Project specific training requirements;
    - iv. Projected expenditure as against the actual expenditure incurred during the period for implementing the employment and training plan/program.
  - b) A time frame for employment opportunities for each phase of project development and operations, to enable members of the Ghanaian workforce to prepare themselves for such opportunities;
8. Where Ghanaians are not employed because of their lack of training the contractor shall ensure, to the satisfaction of VRA that every reasonable effort is made within a reasonable time to supply such training locally or elsewhere and such effort and the procedure for its execution shall be contained in the contractor's employment and training plan.
9. All Joint Venture arrangements between VRA and FDIs shall provide for the retention of the following management positions for Ghanaians: Deputy CEOs, and Head of Finance while the CEO and Technical Director positions are reserved for the foreign company to take care of investor interests.
10. In any Joint Venture arrangement pertaining to long term operations, the contractor shall submit to the VRA a succession plan for any position other than the above management positions not held by VRA and the plan shall provide for VRA to understudy each incumbent expatriate.
11. Senior management positions occupied by foreigners in a Joint Venture with VRA shall be filled by Ghanaians after a period agreed between VRA and the relevant party.
12. The VRA, its subsidiaries, contractors and sub-contractors shall employ only Ghanaians in their unskilled and middle level skilled personnel or any other corresponding grades designated by the contractor or company.

13. The VRA, its subsidiaries, contractors and subcontractors or any other entity engaged on projects or operations shall carry out jobs that are basic to construction works eg. fabrication and welding activities, in the country.
14. VRA personnel holding positions similar to or involving the same amount of work as done by expatriate counterparts in a Joint Venture arrangement shall not be paid discriminatory salaries, wages, and benefits by reason only that they are Ghanaians.

#### **6.4 Monitoring and Improvement**

1. The VRA, its subsidiaries, contractors and subcontractors shall implement this policy with the view to ensuring a measurable and continuous growth of Local Content in all its projects, operations and procurement activities.
2. The VRA, its subsidiaries, shall review and assess the Local Content Plans submitted by contractors or subcontractors, and if satisfied that the plan complies with the provisions of this policy to qualify or pre-qualify the contractor for carrying out VRA's projects or activities.
3. All contractors working on projects of VRA shall indicate in their monthly progress reports:
  - a) employment achievement in terms of the number of Ghanaian and foreign workers and their status;
  - b) procurement achievement in terms of quantity, tonnage of locally sourced materials and materials of foreign origin.
4. Upon commencement of this policy all operators, contractors and sub-contractors of VRA shall make application to the Authority and receive its approval before making any application for expatriate quota to the Ministry of Interior (Immigration Services Department) or any other agency or Ministry in Ghana.
  - a) The application shall be detailed and shall include the following:
    - i. Job titles of the expatriates;
    - ii. Job description and responsibilities of the expatriates;
    - iii. Qualification and experience of the expatriates commensurate with the job.
    - iv. The duration of the proposed employment of the expatriates in Ghana;
    - v. Any other information that may be required.

5. Prior to the award of contract to a sub-contractor or purchase order, the selected contractor shall submit to VRA;
  - a) The name of the selected sub-contractor or tenderer;
  - b) A list of designated sub-contractors or sub-vendors;
  - c) Where applicable, a list of proposed sub-suppliers;
  - d) For construction or service contracts, the estimated Ghanaian employment (person-hour)
  - e) Contract or purchase order commencement and completion dates;
  - f) Award notification form signed by appropriate official of the contractor;
  - g) Statement of award rationale (evaluation of tenders) showing:
    - i. Percentage difference in price between selected tenderer and other tenderers:
    - ii. Estimates of Ghanaian Local Content associated with the tender of each tenderer calculated in accordance with the Schedule provided by VRA;
    - iii. Other information relevant to the evaluation of tenders including where applicable a summary of the technical, commercial and Ghanaian content aspect of the tender evaluation.
6. The contractor shall report to the VRA monthly on employment and training activities for the reporting period and compare this to the E and T plan and the report shall include:
  - a) Number of new employees hired on the project;
  - b) Their place of residence at the time of hiring and their employment status.
7. The relevant Departments within VRA and the Local Content Implementation/ Monitoring Unit (LCIMU) shall ensure compliance with the provisions of this policy and monitor, evaluate and report on the implementation.
8. The LCIMU shall review all procurement processes initiated by the Authority to ensure that, where applicable, provision on Local Content would be made in the tendering document.
9. The VRA shall provide funding under its annual Budget as a Local Content Capacity Development Fund to support local capacity development under this policy. Training of Suppliers shall be on cost-sharing basis to derive commitment and ownership of Suppliers to the initiative.

10. There shall be established a Local Content Implementation/Monitoring Unit (LCIMU) by the VRA Management and be mandated to oversee and ensure the full implementation of the Local Content Policy. The LCIMU will comprise representatives from Procurement, Engineering Services, Project & System Monitoring, Legal Services and Finance Departments.
11. The Local Content Implementation/Monitoring Unit (LCIMU) will oversee the transparent disbursement of the fund in accordance with the rules and procedures to be established.
12. The LCIMU shall set local content targets proportional to current capabilities and realistic potential for increase, against baseline of local content for each project or procurement of goods and services.
13. The VRA and its subsidiaries shall provide transparent fiscal incentive and rewards to contractors and operators who exceed targets set forth in their Annual Local Content Plans and Annual Recruitment and Training Programs.
14. Appropriate sanctions shall be applied against contractors and operators who fail to meet targets set forth in their Annual Local Content Plans and Annual Recruitment and Training Programs.

## **7.0 DEFINITIONS**

In this Policy Document the following words shall have the meanings provided against them:

- “Authority” refers to the Volta River Authority.
- “Ghanaian Company” means a company formed and registered in Ghana in accordance with the provisions of the Companies Code Act 179 (1963) with at least 51% majority shares by Ghanaians.