

LEGAL NOTICE No. 102

REPUBLIC OF TRINIDAD AND TOBAGO

THE PETROLEUM ACT, CHAP. 62:01

REGULATIONS

MADE BY THE PRESIDENT UNDER SECTION 29 OF THE PETROLEUM ACT
THE PETROLEUM WHOLESALE MARKETING (COMPETITIVE
BIDDING) REGULATIONS, 1998

1. These Regulations may be cited as the Petroleum Wholesale Marketing (Competitive Bidding) Regulations, 1998. Citation

2. In these Regulations—

Interpretation

“local company” means a company organised under the laws of Trinidad and Tobago whose issued shares or debentures are wholly owned by persons who are residents or citizens of Trinidad and Tobago, such shares being held in their own name and not on behalf of any other entity or person;

“Minister” means the Minister to whom responsibility for energy and energy industries is assigned;

“wholesale marketing” means the marketing of liquid petroleum fuels by way of the purchase thereof from a refining business in Trinidad and Tobago for sale and use in Trinidad and Tobago.

3. The grant of any wholesale marketing licence for the marketing of liquid petroleum fuels shall be subject to a procedure of competitive bidding, as and when determined by the President or in accordance with these Regulations. Grant of licences subject to competitive bidding

4. (1) Where the President has determined that the issue of wholesale marketing licences shall be subject to a procedure of competitive bidding, the Minister shall cause a notice to that effect to be published in the *Gazette* and in at least one daily newspaper circulating in Trinidad and Tobago. Notification of procedure of competitive bidding

(2) The notice shall specify the period during which the bids may be presented and any other conditions and details which the Minister may consider proper for the purpose.

5. Bids shall be presented under confidential cover in sealed envelopes marked “Bid for a Wholesale Marketing Licence for Liquid Petroleum Fuels” and addressed to the Minister, c/o The Permanent Secretary. Manner in which bids to be presented

Bid packages

6. A person intending to bid shall obtain from the Ministry, bid packages which shall include—

- (a) a letter of invitation to bid;
- (b) an invitation-to-bid questionnaire;
- (c) a statement of the obligations and rights of the wholesale marketer;
- (d) a statement of the criteria for the assessment of bids; and
- (e) any other information which the Minister may consider necessary.

Fee, bond payable

7. Every bid shall be accompanied by a bidding package acquisition fee and a bid bond payable to the Permanent Secretary, Ministry of Energy and Energy Industries, in such form and sums as the Minister may prescribe.

Condition of licences

8. Without prejudice to any other condition upon which a licence may be granted by the Minister, it shall be a condition of every licence granted and its continuance hereunder, for such period as the Minister may determine, that the applicant is a local company.

Form and contents of applications for licences

9. Every application for a licence under these Regulations shall be made in writing and in such form as may be required by the Minister and shall contain the following:

- (a) where applicable, the name, nationality, place of business, nature of business, date and place of incorporation, telephone numbers, facsimile number and e-mail address of the place of business of the applicant;
- (b) a description of the site of the major and ancillary depots illustrated by a plan or map to be prepared in such scale as the Minister may require; a description of the situation, boundaries and area of the parcel of land, and in the case of any land referred to in section 2(3) of the Act, such other particulars as may be required in order to identify such depots;
- (c) a detailed description of the operation intended to be carried out, including the methods to be used, the capacity of the plant, the products to be wholesaled, the source or sources from which the petroleum or products or both will be obtained, and details of storage and distribution;
- (d) evidence that the applicant is a local company, including a copy of the applicant's Memorandum and Articles of Association;
- (e) in respect of the site, evidence that prior permission has been obtained from the appropriate authorities and

- submitted to the Minister, including evidence of compliance with all statutory provisions in respect of traffic, town and country planning, public health and any other relevant written laws;
- (f) a statement of the capital investment involved and evidence, in such detail as the Minister may require, of the applicant's financial resources and competence and availability of adequate and appropriate equipment;
 - (g) evidence in such form and detail as the Minister may require, that the applicant has the technical and human resources to perform the functions of a wholesaler of petroleum liquid fuels efficiently and safely, such evidence to include proposals for training and the resumes of personnel employed by the applicant for the purposes of the licence being applied for;
 - (h) an outline of the applicant's business plan for the three-year period following the date of the application, which shall include—
 - (i) evidence of any commitments or agreements from petrol filling station owners who may form part of the applicant's retail network;
 - (ii) proposed capital investment programmes, including proposals for the upgrading of each petrol filling station within the applicant's retail network;
 - (iii) proposals for improved customer service;
 - (iv) employee remuneration packages; and
 - (v) such other information as the Minister may consider necessary;
 - (i) evidence of an intent to enter into off-take and supply agreements as ascertained by pro-forma off-take agreements and pro-forma supply contracts with the refiner;
 - (j) a commitment to comply with such internationally acceptable health, safety and environmental practices as the Minister may decide; and
 - (k) such other particulars as the Minister may require.

10. Where, before an application is granted or refused, a change occurs in respect of any of the particulars contained in the application, the applicant shall inform the Minister forthwith of the relevant change.

Notification of
change in
application

- Evaluation of bid proposals 11. Bid proposals shall be evaluated on the basis of the assessment of bids criteria included in the bid package.
- Bid not binding 12. The Minister is not bound to accept any bid received pursuant to these Regulations.
- Notification of grant of licences 13. The Minister shall as soon as possible after the grant of a wholesale licence cause notice of that fact to be published in the *Gazette* and in at least one daily newspaper circulating in Trinidad and Tobago.
- Term of licences 14. A wholesale marketing licence granted under these Regulations shall be valid for a period of ten years in the first instance and shall be renewable for a further period of ten years upon such terms and conditions as may be agreed to by the Minister and the licensee at the time of the renewal.
- Obligations of the licensee 15. The obligations of the licensee shall be to—
- (a) perform his functions with due diligence and act in accordance with sound industry practices in the conduct of the operation applied for;
 - (b) ensure that all installations, apparatus and equipment (with special emphasis on measuring equipment and pressure vessels) used in the conduct of its marketing operations shall at all times be maintained in good condition and shall meet the requirements of the law;
 - (c) ensure that the commodity provided by him is in keeping with required standards;
 - (d) establish a quality assurance programme;
 - (e) keep accurate and proper records of all operations, including all sales accounts;
 - (f) make all such records available for inspection by authorised representatives of the Minister;
 - (g) avoid polluting the land, air, seas, beaches, rivers and waterways;
 - (h) provide detailed plans for spillage, containment and waste oil disposal;
 - (i) adhere to such international environmental standards as may be required by the Minister;
 - (j) keep the Minister indemnified at all times against any action, claim or demands of whatever nature, which may be brought against the Minister;

- (k) comply with all instructions as the Minister may from time to time issue for securing the health, safety and welfare of all persons employed in the operation applied for, including all precautions against accidents by fire or explosion;
 - (l) keep and maintain in good working order all approved installations and to have in place approved and adequate fire fighting equipment;
 - (m) prominently display on the site, an adequate number of "No Smoking" and "No Naked Lights" signs or notices;
 - (n) at all reasonable times, allow authorised representatives of the Minister to inspect the operation applied for and to execute all such works as the Minister may by the Act or regulations require to be executed;
 - (o) adhere to all financial obligations;
 - (p) observe all statutory and other provisions for the time being in force relating to the manufacture and storage of petroleum liquid fuels;
 - (q) comply with the Petroleum Act and any Regulations, Rules Chap. 62:01 and Orders made thereunder, together with the Petroleum Production Levy and Subsidy Act and any other written Chap. 62:02 laws of Trinidad and Tobago;
 - (r) at all times, have regard to the public interest and the rights and interests of Trinidad and Tobago;
 - (s) seek the written approval of the Minister prior to engaging in other activities which may be associated with the conduct of wholesale transactions; and
 - (t) operate in good faith with retailers.
16. The rights of the licensee shall include the right to— Rights of the licensee
- (a) engage in wholesale transactions of liquid petroleum fuels;
 - (b) transport liquid petroleum fuels by his own or rented means provided that the vehicles or vessels used for such transportation conform to the Petroleum Regulations and Chap. 62:01 are licensed for such operations by the competent authority;
 - (c) own property which is authorised for use as a petrol filling station;
 - (d) provide the operators of such petrol filling stations with—
 - (i) approved dispensing equipment, pumps, tanks and other display equipment for the purpose of operating a petrol filling station; and
 - (ii) the authority to remove such equipment on determination of the operator's agreement with a retailer and to make good any damage done;

- (e) sell and deliver liquid petroleum fuels to approved persons and installations authorised by the Minister to purchase, store, sell or utilize in their business operations such products; and
- (f) register brand trade marks.

Breach of
licences

17. (1) Where an authorised representative of the Minister discovers that a licensee has committed a breach of these Regulations or the conditions of the licence, he shall inform the Minister forthwith and the Minister may according to the severity of the breach committed—

- (a) revoke the licence; or
- (b) suspend it, giving appropriate notice requiring the licensee to remedy the breach within a specific period of time.

(2) Subject to subregulation (1)(a), where the licensee does not remedy the breach within the specified time, the Minister may revoke the licence.

Matters for
which provision
not made

18. Any matter for which provision is not made in these Regulations shall be governed by the provisions of the Petroleum Regulations made under the Petroleum Act.

Made this 21st day of January, 1998.

A. LEUNG WOO-GABRIEL
Acting Secretary to Cabinet

Laid in the House of Representatives this 23rd day of January, 1998.

J. SAMPSON
Clerk of the House

Laid in the Senate this 3rd day of February, 1998.

N. COX
Clerk of the Senate