



NIGERIAN CONTENT DEVELOPMENT AND MONITORING BOARD

GUIDELINES ON APPLICATION FOR EXPATRIATE QUOTA, SUCCESSION PLAN & DEPLOYMENT OF EXPATRIATES IN THE NIGERIAN OIL AND GAS INDUSTRY.

REV	DATE	REASON FOR ISSUE	PREPARED	RECOMMENDED	VETED BY	APPROVED
R3	03/12/2018	Guidance & Compliance	PRS Directorate	Director PRS	Coordinator Legal Services	Executive Secretary
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Document No.: NC-LEG-01EQ/17



NIGERIAN CONTENT DEVELOPMENT AND MONITORING BOARD

1. INTRODUCTION

The Nigerian Oil and Gas Industry Content Act ("The Act") was signed into law on 22nd April, 2010. The Act provides steps for development and monitoring of Nigerian Content in the Oil and Gas Industry ("the Industry"). The Act established a Nigerian Content Development & Monitoring Board ("NCDMB") which is charged *inter alia* with the responsibility of monitoring the implementation of the provisions of the Act, with a view to ensuring compliance by all operators, contractors, alliance partners and relevant stakeholders. Pursuant to Sections 31, 32, and 33 of the Act, NCDMB is vested with the powers relating to the administration and management of applications for Expatriate Quota, Succession Plan and deployment of Expatriates in the Industry. Section 33 in particular makes it mandatory for all applications for expatriate quota approvals to be submitted to and be approved by NCDMB before any application is submitted for expatriate quota to the Ministry of Interior or any other agency or Ministry of the Federal Government

2. APPLICATION

This Guideline is intended to facilitate compliance with the relevant Sections of the Act dealing with and/or connected to issues of Expatriate Quota, Temporary, deployment of expatriates and Succession Planning. It shall be applicable to all operators (NNPC, International Oil Companies and indigenous operators), Service Companies, Project promoters and all companies providing services and carrying on business in the Industry

2.1 DEFINITIONS

- Act - Nigerian Oil and Gas Industry Content Development Act
- NCDMB - Nigerian Content Development & Monitoring Board (The Board)
- ES - Executive Secretary
- FMI - Federal Ministry of Interior
- DPRS - Director of Planning, Research and Statistics
- NNPC - Nigerian National Petroleum Corporation
- FMI - Federal Ministry of Interior
- DPR - Department of Petroleum Resources
- NIS - Nigerian Immigration Services
- NC - Nigerian Content
- Industry - Oil and Gas Industry
- EQ - Expatriate Quota
- SP - Succession Plan

- CBP - Capacity Building Plan
- EC - Employment Commitment
- JEM - Joint Evaluation Meeting
- Applicant Company - Company applying for EQ
- Nigerian Position - Position in Professional or Technical cadre occupied by a Nigerian Indigene
- Expatriate Positions - Expatriate Quota or a position occupied by a Non-Nigerian Indigene
- Understudy - A Nigerian Indigene deployed by an employer to work under an
Expatriate with the aim of eventually succeeding the expatriate
- Management - A level within an organization which membership is individually in charge of a group of tasks or a subset of the company and who cannot belong to any Labour Union or Association by virtue of their being in such cadres.
- NCCC - Nigerian Content Compliance Certificate
- NC - Nigerian Content
- ITT - Invitation To Tender

3 OBJECTIVES

This Guideline is issued pursuant to the provisions of the Nigerian Oil and Gas Industry Content Development Act, 2010 ("the Act") and for the purpose of establishing a procedure for the administration and management of applications for Expatriate Quota (EQ), Succession Plan ("Plan") and deployment of same in the Industry. Section 31 (1) of the Act requires operators to submit Succession Plan to the NCDMB of ALL positions not held by Nigerians and are not currently on the list of approved 5% management positions for investors interests as provided by Section 33 of the Act. The Plan shall provide for Nigerians to understudy each incumbent expatriate for a maximum period of four (4) years and at the end of the four (4) year period, the position shall become Nigerianised except on projects with shorter life span for which special consideration would be made by the NCDMB for a certificate of no objection based on the Human Capacity Development Plan (HCDP) submitted by applicants for the affected position; In line with Section 33 (1) of the Act, operators would be required to make application to, and receive approval of the NCDMB before making any application for Expatriate Quota to the Federal Ministry of Interior (FMI) or any other agency or Ministry of the Federal Government. Section 32 of the Act allows the operator or project promoter for each of its operations, a maximum of 5% of Management positions as may be approved by the NCDMB as Expatriate Quota for its investor interests

4. 5% INVESTORS MANAGEMENT POSITIONS

In line with Section 32 of the Act, any application for retaining 5% Management expatriate positions shall be submitted for approval by the NCDMB. The approved number shall be a maximum of positions at the discretion of the NCDMB; it could be less, but not more than a maximum of 5% of the overall staff on the Management cadre of the applicant company, subject to annual review where necessary

5. PROCEDURE FOR APPLICATION FOR EXPATRIATE QUOTA

Any operator, Service Company, project promoter, stakeholder applying for EQs in the Industry, including companies providing service(s) or intending to provide service(s) in the Industry shall seek and receive the approval of the Board before making any application for EQ to FMI, except where such expatriate position(s) fall under the 5% Management positions for investor interests as prescribed in Section 32 of the Act, that have been previously approved by the NCDMB

5.1 NEW EXPATRIATE QUOTA

The Applicant Company shall provide documentary evidence to show that the position(s) applied for have been advertised in at least Two major Nigerian newspapers, the NOGIC JQS, the internet and social media sites and that the post(s) had been advertised internally in the company and that no qualified Nigerian indigene had been found within Nigeria including the company and outside Nigeria for the position(s)

All draft external advertisements for such positions under application shall be submitted to NCDMB for review and certification prior to publication. The Applicant Company shall notify NCDMB of receipt of applications, planned interview dates and results of interview for each vacancy advertised

Operators and Service Companies with international affiliations wishing to establish new quota positions by using staff from their international operations will have to submit the staff credentials to the NCDMB along with a Capacity Building Plan in one of the following areas:

- I. Employment of Nigerians in areas identified by the NCDMB
- II. Training of Nigerians in areas identified by the NCDMB
- III. Facility upgrade or revamp as identified by the NCDMB
- IV. Sponsorship of a Research and Development initiative as identified by the NCDMB

The Applicant Company shall provide:

- i. The information specified in *Form NCDMB EQ/A*, on paper and electronic (Excel) formats in its application to the NCDMB
- ii. Proof that no Nigerian indigene is qualified to occupy the position(s) advertised

- iii. The information as specified in *Form NCDMB EQ/C* on ALL existing expatriates in the company on paper and electronic (Excel) formats
- iv. The information as specified in *Form NCDMB EQ/D* on ALL Nigerian indigenous employees in the company on paper and electronic (Excel) formats
- v. The electronic copies of required Forms in (i), (iii) & (iv) shall be uploaded through the Portal Account Profile of the Applicant Company at portal.nogicjqs.gov.ng and electronic copies forwarded to the Board appropriately

5.2 RENEWAL / EXTENSION OF EXISTING EXPATRIATE QUOTA

Applicant Company seeking extension or renewal of existing Expatriate Quotas shall provide:

- i. The information specified in *Form NCDMB EQ/B*, on paper and electronic (Excel) formats in its application to the NCDMB
- ii. The information as specified in *Form NCDMB EQ/C* on ALL existing expatriates in the company on paper and electronic (Excel) formats
- iii. The information as specified in *Form NCDMB EQ/D* on ALL Nigerian indigenous employees in the company on paper and electronic (Excel) formats
- iv. Documentary proof of Succession Plans and understudy of relevant expatriate(s) by Nigerian indigenes in progress since last application and that competent Nigerian indigenes are not available either internally within the company or externally (within or outside Nigeria) to occupy the required position(s) or state any other applicable reasons
- v. The electronic copies of required Forms in (i), (ii) & (iii) shall be uploaded through the Portal Account Profile of the Applicant Company at portal.nogicjqs.gov.ng and paper copies forwarded to the Board appropriately

5.3 INFORMATION TO BE PROVIDED IN APPLICATION WITH SUPPORTING DOCUMENTS

All applications for EQs shall be accompanied with the following:

- i. Succession Plan: Program/strategy for the reduction of expatriates and specific target dates to convert the expatriate positions to Nigerian positions within four years
- ii. Organizational Chart of the Applicant Company
- iii. Advert Report (for new applications)
- iv. Job Descriptions/Qualifications/Persons Specification for each Job role
- v. Training schedule for understudies and other Nigerian staff
- vi. Employment Commitment for Nigerians within the Two Years quota grant period
- vii. Past FMI approval letters for the required positions
- viii. Current DPR permits
- ix. Proof of expatriate registration with professional bodies in Nigeria

- x. Cross Posting/Exchange Program: This should include the positions, names and contact details of the Nigerian and Expatriate staff involved. Experiences gained by both the Nigerian and expatriate staff should be supplied

5.4 EXCHANGE PROGRAM

An exchange program involves a Nigerian going out of the Country to either mentor or gain experience to handle higher responsibilities on his/her return to the Country. In exchange, an expatriate is brought into the Country in the same or similar designation to mentor or understudy the operations in-country. The objective of the program should be clearly stated and should be for capacity building of the Nigerian. An exchange program is for a two years period and may be extended by another two years at the discretion of the NCDMB

5.5 CONSIDERATION OF APPLICATIONS BY NCDMB

- i. Upon receipt of the application and the submissions, the NCDMB may hold a joint evaluation of the application with the Applicant Company on the application, in order to ascertain that the application is in line with the provisions of the Act and the Schedule to the Act. For service companies, the NCDMB may also request a tripartite meeting with the service company and the project promoter of project for which the expatriate application is/are being made. Thereafter, the NCDMB shall make a determination on the application prior to the Applicant Company submitting its application to the FMI or any other agency or Ministry of the Federal Government
- ii. The NCDMB shall make a determination on expatriate quota applications submitted to it within 30 working days of the receipt of the application provided that all information and documents as required by the NCDMB are duly submitted by the Applicant Company. However, if the NCDMB is unable to determine on an application within the time stipulated, it shall inform the applicant, communicate the reasons for the delay and give a definite time within which a determination shall be made. The extended period shall not be more than fifteen (15) working days after the expiration of the initial 30 working days period
- iii. Unutilized expatriate quota positions will not be renewed. If such positions are required by the Applicant Company, they will have to go through the process for establishing a new quota position
- iv. Expatriate staff over the age of 60 will not be renewed as the Nigerian Labor Law pegs retirement age at 60
- v. Expatriate Quota approvals will not be issued to Applicant Companies that are into Manpower Supply Services, as approvals are only granted to companies directly handling projects
- vi. Once a quota position(s) has tagged as non-renewable by the FMI, an Operator or a Service Company can not renew the said quota position(s). The position(s) must be

relinquished. If such positions are required by the Applicant Company, they will have to go through the process for establishing a new quota position

5.6 COMMUNICATION WITH APPLICANT COMPANY

Upon issuance of the Expatriate Quota by FMI, the Applicant Company shall communicate to the NCDMB the list of the approved positions within one month of receipt on paper and electronic (Excel Worksheet), by updating the "*Effective Date of current Quota*" and "*Expiry Date of current Quota*" fields in Form *NCDMB EQ/C* for the approved positions, as well as update their expatriate quota status on the NOGIC JQS. Unless otherwise authorized in writing by the NCDMB, expatriate staff, job-titles or designations on the Expatriate Quota approval and Nigerian understudies shall remain unchanged for the duration specified in the FMI letter(s) of grant Expatriate Quota. The list of Nigerians to fill the rejected positions shall be forwarded to the NCDMB for approval before final approval of the expatriate quota positions is made

5.7 RE-EVALUATION OF APPLICATIONS AFTER APPROVAL

Should the need arise for a rejected quota position to be re-evaluated, the Applicant Company will be requested to submit a Capacity Building Plan (CBP) stating the capacity building initiatives that will be undertaken by it (as agreed with the NCDMB)

The Capacity Building Plan could/would include one or more of the following area

- i. Employment of Nigerians in areas identified by the NCDMB
- ii. Training of Nigerians in areas identified by the NCDMB
- iii. Facility upgrade or revamp as identified by the NCDMB
- iv. Sponsorship of a Research and Development initiative as identified by the NCDMB

5.8 RE-DESIGNATION OF EXPATRIATE QUOTA POSITIONS

Whenever the need arises for an already approved quota title to be re-titled, the Applicant Company shall make a request to the NCDMB, stating the old quota title, the new quota title and the expatriate staff occupying the position. Approvals is at the discretion of the Board.

5.9 BIOMETRIC DATA CAPTURE OF EXPATRIATE STAFF

Biometric data of all expatriate staff is to be captured by the NCDMB within a month of their entry into the country for new quota positions. For renewals and re-designations, biometric data of expatriate staff must have been captured prior to the applications being made by the Applicant Company

Operators in the Oil and Gas Industry engaging services of contractors with expatriate staff should ensure that such expatriates have valid NOGIC EBS Identification Cards issued by the

Board. Registration with NOGIC JQS should be included as a condition for all contractors' expatriate staff working for operators

5.10 EMPLOYMENT COMMITMENT

In line with Section 29 of the Act, any operator, project promoter, contractor, stakeholder including Service Companies shall upon application for Expatriate Quota, submit a detailed Employment Commitment plan stating employment positions for Nigerian indigenes with timelines for the employment (as agreed with the NCDMB). Renewal of quota positions will be dependent on the compliance level with the previously submitted employment commitment

6. SUCCESSION PLAN (SP)

In line with Section 31 of the Act, any operator, project promoter, contractor, stakeholder including Service Companies shall upon application for Expatriate Quota, submit a Succession Plan. The SP shall consist of a minimum of two Nigerian Indigenes understudying each incumbent expatriate position and such SP shall include a detailed work program on how the position will become Nigerianized at the end of a four (4) year period from the date of establishment of the position. If the need arises for the relocation of an understudy, the NCDMB must be notified with sufficient reasons regarding the relocation and confirmation of an immediate replacement as an appropriate alternative ensuring that the understudy program is not disrupted or extended in any way

6.1 INFORMATION TO BE PROVIDED IN SP APPLICATION WITH SUPPORTING DOCUMENTS

All submissions for the SP shall be accompanied with the following:

- I. Program/strategy for the reduction of expatriates, specific target dates to convert the expatriate positions to Nigerian indigenous positions within four (4) years. This will include all trainings (on and off the job)
- II. Salaries, wages, and benefits as provided in the company's conditions of service for Nigerian indigenous employees
- III. Conditions of service and staff demography on cadres
- IV. A career development path must be defined for each understudy

7. ANNUAL MANDATORY SUBMISSIONS TO NOGIC JQS ON HUMAN CAPACITY PROFILE

All Operators, Alliance Partners and Service Companies are required to submit the under-listed documents to the NCDMB by March 31 of the current year, notwithstanding whether or not an EQ application had been submitted or would be submitted during the year:

- i. List of all expatriate workers on temporary or permanent employment in the company as listed in Form *NCDMB EQ/C*, on paper and electronic (Excel) format;
- ii. Total list of Nigerian indigenous Staff as provided in Form *NCDMB EQ/D*, made on paper and electronic (Excel) format;
- iii. Form *NCDMB SP/A and SP/B*, made on paper and electronic (Excel) format
- iv. The electronic copies of required Forms in (i), (ii) & (iii) shall be uploaded through the Portal Account Profile of the Applicant Company at portal.nogicqs.com and paper copies forwarded to the Board appropriately

8. INTERFACES WITH FEDERAL MINISTRY OF INTERIOR, NIGERIAN IMMIGRATION SERVICES AND DEPARTMENT OF PETROLEUM RESOURCES

NCDMB shall periodically meet with FMI and DPR and any other government agency deemed relevant to assess progress on industry compliance with the Expatriate Quota provisions in the NOGICD Act, 2010

8.1 COMPLIANCE REQUIREMENTS & MONITORING

- i. Compliance with this Guidelines shall be a major criteria for any award of NCCC and NC requirements for ITTs: and every operator, alliance partner, project promoter, contractor, service companies and stakeholders in the Industry shall each be responsible for ensuring the strict adherence of this Guidelines by its corporate entity. In furtherance to this, all Expatriate(s) shall be duly designated and deployed strictly in line with the approved designations or shall not be deployed, engaged or permitted to undertake any other role, service or responsibility contrary to the approval granted pursuant to the Expatriate Quota application made
Expatriate(s) shall depart from Nigeria promptly upon the completion of the project or work for which the Expatriate Quota approval was granted by the FMI and in no event shall any Expatriate(s) be permitted or authorized to remain in the employment or stakeholder following the completion of the relevant project unless with the written approval of the NCDMB and the FMI and in line with the provisions set out in the **EQ** Guideline
- ii. NCDMB, in accordance with the provisions of Section 59 and 62 of the Act shall establish a mechanism for monitoring compliance with these Guidelines, which may include but not limited to unscheduled visits to offices or job sites of the companies, as it deems necessary

9. CONSEQUENCES OF NON-COMPLIANCE

- i. Non-compliance with this Guideline by any operator, project promoter, contractor stakeholder in the Industry; including companies providing service(s) or intending to provide service(s) shall be considered to have violated provisions of the Act if it employs

or permits or procures the employment of any expatriate staff either on permanent or temporary position(s) in the oil and gas industry outside of the procedures specified in this Guideline

- ii. The NCDMB would require immediate removal of such expatriate(s) and penalize the company in line with the provisions of the Act

10. FORMS AND CHARTS

EQ/A – New EQ Applications Form

EQ/B – EQ Renewals Form

EQ/C – All Expatriate Staff Details

EQ/D – Nigerian Staff Details

EQ/R – Re-designation Form

SPC – Succession Plan Chart

ECC – Employment Commitment Chart