FEDERAL REPUBLIC OF SOMALIA
MINISTRY OF PETROLEUM & MINERAL RESOURCES

SOMALIA PETROLEUM TECHNICAL ASSISTANCE PROJECT
(SOPTAP, P164175)

COMPONENT A - REFORMS AND CAPACITY BUILDING
SUB COMPONENT A.1 - INSTITUTIONAL REFORMS

IMPLEMENTING AGENCY – MINISTRY OF PETROLEUM & MINERAL RESOURCES

TERMS OF REFERENCE

FOR

CONSULTING SERVICES FOR THE INSTITUTIONAL DEVELOPMENT OF THE PETROLEUM REGULATORY AUTHORITY IN THE FEDERAL GOVERNMENT OF SOMALIA

MARCH 2019

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<td>The PC &amp; the Regulatory Directors</td>
<td>Technical Director</td>
<td>The DG</td>
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1.0. Background

During the last 5 years, the Federal Government of Somalia (FGS) and the emerging Federal Member States decided to modernize the petroleum framework to adequately manage the interest of both the private and the public sectors. A review of the petroleum legal, fiscal, regulatory and contractual framework has been conducted. Among others, it was recommended that the petroleum framework include provisions regarding the powers of some important petroleum institutions with respect to petroleum administration, ownership and revenue sharing/allocation. In that period, the initiatives that completed consisted of the following:

1. The petroleum policy
2. A Petroleum Bill annexed with a new Production Sharing Agreement Model of Somalia
3. Some petroleum regulations, including the Somali Petroleum Authority, Health and Safety and Environmental Regulations
4. The Petroleum Management and Revenue Sharing Agreement signed between the Federal Member States and the Federal Government

Thus in 2017, the new Petroleum Bill was presented to the Council of Ministers in September 2017, and the document passed their scrutiny. The Petroleum Bill sets the main principles and leaves discretionary power to the administration through regulations, which shall be exercised within the limits set in the Bill.

Comparing the Petroleum Bill of 2017 with the Petroleum Law 2008, the differences are not too many. Therefore, the New Petroleum Bill can be considered as an amendment of the Petroleum Law 2008, rather than being a new Bill with lots of alterations. Hence, in order to convince the public and the Federal Parliament, the Ministry of Petroleum and Mineral Resources has tabulated a list of the areas affected by amendments in the current law (Petroleum Law 2008). It is hoped now that The Bill will easily pass the Parliament and then move to the President for signing.

The Law includes a Model PSA that has been deliberated in the initial hearing by the Federal Parliament and approved by the Council of Ministers. In addition, the Law is annexed with the Regulation of the Somali Petroleum Authority, Health and Safety Regulation and an Environmental Regulation.

In June, 2018, the Federal Government and the Member States have reached an agreement in an inclusive manner on natural resources. The Agreement on Ownership, Management and Sharing of Revenues from the extractive resources of the country (petroleum and minerals) of 5 June 2018 (“RSA”) describes fundamental principles for ownership of natural resources, management of natural resources and revenue sharing arrangements among the Federal Government, the Member States and Benadir Region. The principles of the RSA shall soon be included and reflected in the Petroleum Bill and it is anticipated that the New Bill ratified by the Parliament has completed the required amendments.
All the above activities pave the way for the establishment of the upstream Somali Petroleum Authority (SPA). The Petroleum Bill states the mandate of the SPA and that of the Ministry of Petroleum and Mineral Resources. According to the Petroleum Law in force, until such time that the establishment of the SPA is technically and economically justified, the Ministry’s Regulatory Department shall act as interim SPA body. The Law also, lists the functions and powers of these entities in detail when operational. An effective working SPA combined with new enacted Petroleum Law and the legislations associated may lead towards the first private sector Production Sharing Agreement (PSA) awards through effective bid-rounds and direct negotiations achieving first FGS-aspired offshore exploration activities.

Further, in accordance to international best practice, the establishment of a petroleum authority will follow a stepwise approach (table 1). And it may take up to 1 to 1.5 years to complete. Nevertheless, this Terms of Reference will cover the deliverables of the institutional structure, determination of job description & skills assessment, as well as design of business processes & procedural manual. Until such time the SPA is inforce, The Ministry shall forsee, execute and delivery the following:

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<tr>
<td>1</td>
<td>Pass Petroleum Bill 2017 / Amendments to 2008 Law</td>
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<td>2</td>
<td>Affirm SPA Mandate through Regulatory department of MOPMR</td>
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<td>3</td>
<td>Establish a complete set of upstream regulations</td>
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<td>4</td>
<td>Agree Institutional Structure</td>
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<td>5</td>
<td>Determine job description and skills assessment for SPA</td>
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<td>6</td>
<td>Receive job position approvals from the Civil Service Committee</td>
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<td>7</td>
<td>Assess existing staff for roles</td>
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<td>8</td>
<td>Search for external staff</td>
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<td>9</td>
<td>Design processes and procedures manual</td>
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<td>10</td>
<td>Design ITC strategy</td>
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<td>Create Public Awareness</td>
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*Table 1: International Best Practice stepwise approach for Petroleum Authority Establishment*

2.0. Objective of the Consulting Assignment

The objective of the assignment is to lay the groundwork for the institutional capacity of the Somali Petroleum Authority (SPA) to start executing its mandate as an upstream regulatory reinforcement agency. This covers the design of the organizational & governance structure, the business-, financial- and operational models, processes and procedures.

3.0. Scope of Work

Having seen the feedback from the World Bank and the available fund, the Ministry has prioritised the activities in terms of scope of work. The scope of work will be limited only to the initial stage (Phase 1) - that is the institutional design phase. Phase 2 will be deferred to another time when funding will be within reach.
Phase 1 - Institutional Design


2. Conduct benchmark study in analogue countries in terms of external environment, (future) size of the upstream sector, and regulatory institutions with similar powers and functions. As a minimum FGS should be benchmarked with some Federal countries like Iraq, Indonesia and Nigeria. Recommend most applicable organizational international best practices. Propose best practices for adoption including gaps closure.

3. Design petroleum authority’s institutional structure enabling a transparent and independent authority and provide rational. In particular pay attention to the representation of Federal Member States in SPA and to the relationship of SPA to other related petroleum management institutions to ensure clarity of roles and decision-making processes. Seek endorsement from the Client prior proceeding.

4. Set up HR framework covering staffing numbers, job profiles, competencies, reporting lines, salary band widths and recruitment schedule, categorized and phased in Tiers (minimum 3 – reflecting short, medium, long term) meeting both the upstream sector development timeline as well as the mandatory legal requirements.

Phase 2 - Implementation Plan, Models, Processes, Procedures, Communication Protocol

Due to limited funding, Phase 2 is deferred to another time. The present work is confined only to Phase 1.

Upon approval of phase 1, the detailed scope of work for phase 2 includes;

1. Develop implementation plan, financial and operating models which shall include the financing and budgetary aspects of possible Government & Member States funding, self-sufficiency and relevant sustainability and Provide rational.

2. Develop mechanism for handling existing legacy contracts. This entails a thorough review for terms of existing contracts and consequently recommending the necessary change.

3. Design the processes and procedures and develop a manual covering human resource, legal, financial and regulatory modus operandi accordingly to international quality assurance and control standards.

4. Establish human resource management policy for qualification, recruitment, assessment, remuneration, evaluation and promotion of staffing situations with an identification of influence on best in class international performance of the Authority.

5. Develop human capacity building strategy utilizing sources from diaspora, temporary seconded staff, training and formal civil servants' transfers and make recommendations

6. Provide an internal and external communication protocol. This facilitates petroleum data management, due diligence process of investors and grievances handling mechanism.

7. Develop implementation plan for the processes, procedures and communication protocol

8. Set up a stakeholder workshop for consultation presenting outcomes and recommendations of point 1-7

9. Provide a road map and overall action plan for the establishment and operationalization of the authority.
4.0. **Cross – Sector Relationships**

The consultant is expected to work closely with the Ministry of Petroleum and Mineral Resources, and Federal Member States representatives. The Consultant needs to be aware of interdependency & synergies with other ongoing FGS and FMS reforms.

5.0. **List of Deliverables**

The Consultant(s) shall prepare the following reports covering the scope defined. The reports shall include Annexes for all data submitted, interviewed personnel and their contacts.

a) Inception Report, an Interim report, a Final report and multiple stakeholder workshops (for both Phase 1)

b) SPA Design (organizational & governance structure, job description, skills & competencies)

c) 

d) 

e) 

6.0. **Duration of Assignment**

The proposed duration for the Phase 1 activity is 5 months. The Consultant will need to provide a detailed work schedule prior commencing. The current assignment covers Phase 1 (5 months).

7.0. **Client support**

MoPMr will assign a senior level official qualified and experienced in the field as a focal point for the assignment and to provide guidance to the work. The focal point will be responsible for (organizing) review and approval of submitted reports/developed deliverables. MoPMr will provide the Consultant with necessary documentation and access Consultant with all necessary documentation, access to data and policy papers and provide introductions to all relevant stakeholders.

8.0. **Implementation arrangements**

The assignment shall be coordinated by MoPMr. The Consultant shall make own arrangements for carrying out its services, including reproduction of documents, printing and reproduction of all reports, and organizing meetings with other relevant institutions.

MoPMr will provide existing documentation and information regarding the project and meetings will be set up whenever needed. The Consultant will however be responsible for obtaining all the necessary public information required to perform the tasks included in this TOR.

9.0. **Expected Consultant Experience**

The consulting company shortlisting criteria includes;

1. In-depth international expertise in establishing Petroleum Regulatory Authorities, especially upstream regulatory institutions.

2. Demonstrate years of significant knowledge and experience in conducting and facilitating petroleum sector institutional development including, feasibility studies, restructuring, financial
and operational modelling.
3. Demonstrate a track record of success by providing a list of minimum three (3) contracts of similar nature and complexity in development of Petroleum Regulatory Authority and its implementation results.
4. Demonstrate experience in development of petroleum authority with similar environment as in Somalia.

The consulting firm may propose the best team combination to achieve the overall goal. To be considered for the assignment, proposed team members should submit their respective CV’s.

**9.1. Required Qualifications**

The members of the team will have the skills and experience necessary to undertake the range of tasks set out in this Terms of Reference. Each individual on the team must be personally available to do the work as and when required. The Team Leader will be held accountable for ensuring project deliverables and for the professional conduct and integrity of the team.

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<th>Position</th>
<th>Qualification</th>
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| **Team Leader/ Petroleum Business Expert** | 1. Post Graduate degree in Economics, Marketing, Finance, Geoscience, Engineering and Business Administration or any related discipline;  
2. 20 years of international experience in providing advisory services in designing petroleum regulatory organisations and their operationalization.  
3. In-depth knowledge of financial and operational business process and procedures enabling an effectively functioning of an upstream petroleum authority.  
4. Demonstrable track record of advising upstream sector as well as down- & midstream sector institutional alignments/restructuring with at least three projects in advising government in regulatory matters.  
5. Good English communication and writing skills, especially in report writing are essential. |
| **Human Resource/Organizational Expert** | 1. Post Graduate qualification in Human Resources, Economics, Business Administration or any related discipline;  
2. 15 years of experience in providing expert advisory and consultancy service to upstream petroleum sector organizations on a wide range of complex human resource management affairs.  
3. Demonstrated knowledge in employment law, compensation management, organizational planning and development, employment relations, relevant technical and non-technical disciplines, and defining |
4. In-depth knowledge in human resource management, policies procedures and processes enabling the set-up, development and operationalization of an effectively functioning upstream petroleum authority with at least three projects in advising government in relevant matters.

5. Experience in formulating human resource development strategies and participating in organizational training needs analysis and apply analytical, qualitative and research skills to develop appropriate creative strategies for human resource capacity building formulation in the upstream oil and gas sector.

6. Good English communication and writing skills, especially in report writing are essential.

**Legal Expert**

1. A Post Graduate degree in petroleum law
2. 10 years’ demonstrated experience with excellent knowledge of the international and locally applicable laws, and in the set up and functioning of public institutions in the petroleum sector especially with regulatory mandates.
3. In-depth knowledge of legal business process and procedures enabling the design and implementation of an effectively functioning petroleum authority.
4. At least three similar projects undertaken demonstrating experience in resolving upstream regulatory issues and its institutional assessment; and in preparation of the operationalization of petroleum regulatory institutions.
5. Good English communication and writing skills, especially in report writing are essential.

### 10.0. Conflict of Interest Statement

The Consultant is required to disclose any potential conflicts of interest arising out of other assignments. Where the Consultant currently represents any party or potential stakeholders that would create conflict of interest or to the extent any conflict of interest would arise in the future, the Consultant shall provide a copy of its policy or procedures with respect to conflicts management (mere reference to such policy or procedure will not suffice).

In addition to the Consultant’s conflict of interest and confidentiality policy, the Consultant shall detail any measures that may be required to avoid conflicts of interest and ensure the confidentiality of information received in connection with the implementation of this assignment.