

THE GOVERNMENT OF GEORGIA



REQUEST FOR EXPRESSION OF INTEREST FOR THE DEVELOPMENT OF THE OIL REFINERY PROJECT

1. INTRODUCTION AND SUMMARY

Georgia is fully dependent on imported oil products and there is no refinery plant operating in the country at the moment. Increasing demand for oil products on the local and regional markets, the infrastructure development in progress, together with the proximity of crude oil production regions serve as a sound basis for oil refinery development in Georgia.

The Government of Georgia (the “GOG”) intends to select an investor (the “Investor”) to develop a modern oil refinery (the “Oil Refinery”), with a minimum refining capacity of two (2) million tons of crude oil per annum on the coast of the Black Sea on a build, operate and transfer (BOT) basis (the “Project”) pursuant to an agreement to be entered into with the Investor (the “Agreement”).

Accordingly, by this Request for Expression of Interest (the “Request for EOI”), the GOG acting through the Ministry of Economy and Sustainable Development of Georgia (the “MoESD”) invites local and international companies (“Candidates”) to submit their expressions of interest (“EOI’s”) to act as Investor in relation to the Project.

2. LOCATION

The location of the Oil Refinery shall be Poti, left embankment of river Rioni.

3. PROJECT DESCRIPTION

Main Project Requirements:

- a) Construct the Oil Refinery with minimum refining capacity of two (2) million tons of crude oil per annum, till the end of the year 2017 in accordance with the timetable agreed between the parties prior to execution of the Agreement;
- b) Obtain oil refinery license (the "License") and start production no later than December, 2018;
- c) Ensure oil refining to produce no less than Euro 5 standard and/or equivalent or the standards established by the Georgian Legislation (whichever higher) light and middle distillates and other oil products in accordance with the License term and conditions;
- d) Offer at least 20% of annual production of each type of light and middle distillates at the local market to the parties designated by the GOG;
- e) Guarantee that the EXW price of oil distillates offered to the local market under clause "d" above, constituting 20% of annual production of each type of light and middle distillates, is at least at 10% discount compared to mean/average value of identical oil distillates for 10 publication days at PLATTS EUROPEAN MARKETSCAN.
- f) Ensure the compliance with the License terms and conditions and related regulatory requirements in order to keep the License valid for no less than twenty-five (25) years;

g) Ensure that at least 90% of employees are completed by the citizens of Georgia;

h) Prior to signing the Agreement, present to the seller an irrevocable and unconditional bank guarantee in the amount of twenty million (20 000 000) USD, issued by the bank from the OECD member country and confirmed by the National Bank of Georgia or by a local commercial bank, which should guarantee obligations under the Agreement and be valid till 1 May, 2019.

Term:

The envisaged term of the BOT arrangement is thirty (30) years from signing the Agreement but no longer than twenty-five (25) years from obtaining the License.

Financing and Recourses:

The winning participant will be responsible for providing equity and/or attract debt financing for the Project, as well as for procuring crude oil necessary for operating the Oil Refinery in accordance with the conditions outlined in the Agreement.

4. UNDERTAKINGS OF THE GOG

The GOG will provide the Investor with up to 3 258 926 sq. meters of state owned land located in Poti, left embankment of river Rioni (Land (immovable property) cadastral code 04.01.02.826) (the “**Property**”), fully or partially as required for the Project, under BOT basis and with the mandatory conditions presented as “Main Project Requirements” in section 3 above. The legal framework for provision of such land is to be finalized prior to execution of the Agreement.

5. CONDITIONS PRECEDENT FOR TRANSFERRING THE PROPERTY

In order that the transfer of the Property would occur the Investor should fulfil the following conditions precedent (the “**Conditions Precedent**”):

- a) Sign the Memorandum of Understanding (the “**MOU**”) with the GOG within three (3) months from adopting the GOG Decree announcing the winner in EOIs (the “**Decree**”);
- b) Pay the Signing Bonus (see definition below) within fourteen (14) calendar days from the date of signing the MOU;
- c) Undertake a full technical and economic feasibility study of the Project (the “**Feasibility Study**”), including an environmental and social impact assessment (the “**ESIA**”) within twelve (12) months from signing the MOU;
- d) In case the Feasibility Study proves the Project feasible, within three (3) months from the completion of the Feasibility Study but no later than fifteen (15) months from signing the MOU request transfer of the Property under BOT;
- e) Submit the copy of the Feasibility Study to the GOG within one (1) week from its completion;
- f) Prior to signing the MOU, increase the amount of the Prequalification Bank Guarantee (see definition below) up to two hundred and fifty thousand (250 000) USD, which will guarantee fulfilment of the Conditions Precedent a – e above.

6. PROCEDURES OF EXPRESSION OF INTEREST

6.1 Prequalification Requirements

In order to be qualified, candidates must meet the prequalification requirements (the “**Prequalification Requirements**”) provided below:

- A. submit the following information and relevant documents as part of their EOI’s:
 - 1) Official name and address;
 - 2) Mailing address, contact persons and contact details;
 - 3) Duly certified abstract from the Company Register/Certificate of incorporation (and any certificate of incorporation and change of name);
 - 4) Certified copies of the Articles of Association/Charter;
 - 5) Company profile;

- 6) Experience statement, evidencing that the Candidate or the Candidate's named subcontractor(s) meet the Prequalification Criteria set out under Part A (*Experience*) of the Prequalification Criteria in Annex 1 hereto. Where the Candidate's experience statement relies upon the experience of named subcontractor(s), the Candidate shall include confirmation from each such named subcontractor of its willingness to participate in the Project. Experience statement shall be accompanied by the relevant documents and references;
- 7) Audited financial statements for the preceding 5 years for all parties involved in the Project, including consolidated financial statements in respect of the corporate group to which each such party belongs (where "**corporate group**" means, with respect to any corporate entity, the ultimate holding company of such entity and all subsidiary entities controlled, directly or indirectly, by that holding company);
- 8) Duly certified list of shareholders owning more than 5 percent of the Candidate's shares including ultimate beneficial owner information;
- 9) List of any litigation or arbitration proceedings to which any company in the Candidate's corporate group has been a party during the last 5 years; and
- 10) Where the Candidate is a consortium and/or has the subcontractor(s), a list of the consortium members and subcontractor(s) and the above listed information/documents for each of the members and subcontractor(s).
- 11) Information on the Project:
 - Proposed methodology for developing the Oil Refinery;
 - Proposed time required for the development of the Project;
 - Expected annual capacity of the refinery;
 - Potential suppliers of crude oil;
 - Size of investment estimated for the development of the Project;
 - Any other suggestions for development of the Project.

B. Present an unconditional and irrevocable bank guarantee issued by the bank from the OECD member country and confirmed by the National Bank of Georgia or by a local commercial bank in the amount of one hundred thousand (100 000) USD (the "**Prequalification Bank Guarantee**"), which would guarantee the fulfillment of the Conditions Precedent presented in section 5 above and should be valid for no less than twenty-two (22) months from the date of its submission;

C. Satisfy the Prequalification Criteria attached as annex 1 to this Request for EOI.

N.B. The Prequalification Criteria may be amended or varied in writing by the MoESD at any time prior to the Submission Deadline (see definition below), through an announcement on the MoESD's official website.

Only the proposals of those candidates who meet the Prequalification Requirements, presented in Section 6.1 A-C above will be considered.

Where a Candidate is a consortium, no member of the consortium may be a member of another Candidate. All EOIs must be drafted in Georgian or English.

Candidates may be invited by the GOG to make a presentation in Tbilisi.

6.2 Submission of EOIs

All EOIs must be delivered in 3 original executed copies and one electronic copy (PDF) in a sealed envelope no later than 14.00 Tbilisi time on or before February 10, 2015 (the "**Submission Deadline**") to the MoESD to the following address:

Ministry of Economy and Sustainable
Development of Georgia
12 Chanturia Street, Tbilisi, 0108 Georgia

In the event that there is any discrepancy between the original executed copies of any EOI and the electronic copy, the original executed copies shall prevail.

6.3 Evaluation. Procedure and Criteria

The evaluation process will be conducted by the respective Governmental Commission (the "**Commission**") following the Submission Deadline.

The evaluation criterion among the candidates who meet the Prequalification Requirements set out in section 6.1 A-C above and the Prequalification Criteria outlined in Annex 1 of the MOU will be the amount of payment offered by the participants for signing the MOU (the "**Signing Bonus**").

The Commission will review the proposals, identify the winner and will prepare respective information for the submission to the GOG in order the GOG to approve the Commission decision regarding to the selection of the winner and the final ranking of the other candidates.

The Prequalification Bank Guarantees of the unsuccessful candidates will be returned after identification of the winner.

The timing for the selection process is 60 (sixty) days from the Submission Deadline.

7. EXECUTION OF THE MOU

The GOG will issue written notice to the winner and invite for the MOU negotiations and execution.

The models of the MOU will be open for negotiations only to the extent that the outcomes of such negotiations do not affect the basic conditions including financial and guarantee conditions and are in compliance with Georgian legislation. At the same time, the MOU will be subject to the GOG approval.

8. GENERAL REGULATORY FRAMEWORK; WAIVERS

- a. The MOU, the Agreement, the final design and construction of the Oil Refinery, as well as its licensing and operation are subject to certain legislative and regulatory requirements;
- b. Alienation, mortgage and lien of the rights of the Investor under the MOU and under the Agreement will require prior written consent of the other party;
- c. In case the study evidences the project unfeasible and/or the winner does not request the Property transfer under BOT within the respective timeframe the Feasibility Study should be transferred in the ownership of Georgia and it should be handed over to the GOG no later than two (2) months from its completion; The Signing Bonus will not be reimbursed.
- d. This Request for EOI, as well as all issues and procedures related to it, including but not limited to submission of EOIs, prequalification and

evaluation process are governed by and shall be construed in accordance with the laws of Georgia. Any dispute, controversy or claim arising out of or in connection with this Request for EOI shall be referred to the competent court of Georgia. By agreeing to participate in procedures of expression of interest, the candidates irrevocably and unconditionally waive any rights to any other form of dispute resolution, appeal, review or recourse to any state court or other judicial authority, in so far as such waiver may validly be made. The Parties undertake to implement without delay the provisions of decision of the competent Georgian court which is entered into force;

- e. Nothing in this Request of EOI shall be construed as granting to the winner any rights or exclusive rights to develop the Project (including construction and operation of the Oil Refinery and/or any related infrastructure) by the mere fact of participation in procedures set forth in this Request for EOI and/or following BOT arrangements.
- f. This Request for EOI does not constitute a commitment on the part of the GOG to select any Candidate, nor to reimburse any expenses to any Candidate. Furthermore, submission of the documents shall not entitle any Candidate to any claims against the GOG by virtue of such firm or consortium having responded to this Request for EOI. All costs incurred by respondents as a result of this Request for EOI and any subsequent requests for information shall be for the Candidate's account only.

9. IMPROPER INFLUENCE

Any attempt by any Candidate or their representatives to influence the EOI process in any way may result in the Candidate being disqualified.

10. RIGHTS OF THE GOG

The GOG reserves the rights to:

- waive or change the requirements of this Request for EOI (including the Prequalification Requirements and the Prequalification Criteria) from time to time without prior notice being given by it, through an announcement on the MoESD's official website;
- seek clarification or documents in respect of a Candidate's submission;

- disqualify any Candidate that does not submit a compliant EOI in accordance with the instructions in this Request for EOI;
- disqualify any Candidate that is guilty of misrepresentation in relation to its EOI;
- withdraw this Request for EOI at any time, or to re-invite Candidates on the same or any alternative basis, through an announcement on the MoESD's official website;
- choose not to award any contract, the MOU and the Agreement as a result of this process; and/or
- make whatever changes it sees fit to the timetable for EOI submission and evaluation process, or to the structure or content of this Request for EOI, through announcement on the MoESD's official website.

11. CONTACT INFORMATION

All Candidates must submit any requests for clarifications by no later than December 20, 2014 by email to the email address set out below. The MoESD will publish on its website and make available to all Candidates the responses to clarifications received within this time.

Contact information for inquiries:

Nino Tsetskhladze
Acting Head
Investment and Export Policy Department
Ministry of Economy and Sustainable
Development of Georgia
12 Chanturia Street, Tbilisi 0108 Georgia
Tel: +995322991093
Email: ntsetskhladze@economy.ge

Annex 1 – Prequalification Criteria

A. Experience

The experience statement and information submitted with the Candidate's EOI must demonstrate that it, or any of its named subcontractors which have confirmed their willingness to participate in the Project, together has or have:

- (a) at least five (5) years of experience in the development, operation and/or financing of projects of similar nature; and
- (b) experience in the development and operation of one or more oil refinery project(s).

B. Financial Standing

- (c) The consolidated financial statements submitted by the Candidate with its EOI must demonstrate that it has (or, where the Candidate is a consortium, that its consortium members together have) financial standing better than or equal to act as Investor in relation to the Project, in the opinion of the Governmental Commission.
- (d) The Candidate with must not be exposed to any claims, proceedings or liabilities (either pending or within the previous five (5) years) which could cause its financial standing to fall below the permitted level referenced in (c) above, as evidenced by the list of litigation and arbitration proceedings disclosed together with its EOI.