

South African Department of Energy calls for Expressions of Interest for 600 MW Gas Fired Power Plant

May 2016

Authors: [Kirsti Massie](#), [Mukund Dhar](#), [Craig Whitley](#), [Matthew Richards](#)

On 11 May 2016, the South African Department of Energy announced a call for expressions of interest for the appointment of strategic partners to assist state-owned companies in the development of a 600 MW gas-fired power plant. It is anticipated that this 600 MW gas-fired power project will be developed alongside and in addition to the existing determination for the 3,126 MW gas-to-power program for which a PIM will be issued between June and August 2016.

South Africa's much anticipated gas-to-power program has taken a step forward with the release of the South African Department of Energy's ("DOE's") 11 May 2016 call for expressions of interest for the appointment of strategic partners to assist state-owned companies ("SOCs") in the development of a 600 MW gas-fired power plant ("Project").

Expression of Interest

The stated purpose of the expression of interest ("EOI") is to assess private sector interest in being appointed as strategic partner to one or more SOCs for purposes of developing the Project. The SOCs themselves have yet to be identified but may include one or both of Transnet (South Africa's rail, port and pipeline company) and PetroSA (South Africa's national oil company), amongst others.

The role of the appointed Strategic Partners is expected to involve providing technical and financial support for the implementation of the Project "in conjunction with the SOCs" and may include opportunities to assist in the "development of a gas-fired power generation plant" as well as to establish "opportunities for manufacturing within the gas-to-power value chain".

The full EOI will become available from the IPP Office (www.ipp-gas.co.za) on 16 May 2016 at 12h00 and precedes the issue of a full set of procurement documentation by the DOE. The opportunity to submit a formal submission will remain open until 20 June 2016.

Gas-to-Power Program

The EOI is issued in the context of a "600 MW Additional Gas Determination" which indicates that it is separate to the previously announced 3,126 MW gas-to-power program contemplating new energy generation from gas. On 11 May 2016 the Minister of Energy, Tina Joemat-Pettersson, also announced that a preliminary information memorandum in relation to the 3,126 MW gas-to-power program would be made available to the market between June and August 2016. A formal procurement process is expected to follow later in the 2016/2017 financial year.

Thematic Considerations

South Africa's push to utilise gas for generation as well as for industrial use generally presents a significant opportunity for LNG, gas and power sector participants. At the same time, stakeholders are conscious of the unique and complex challenges associated with the use of gas for generation and industrial use, including the stimulation of a gas market in South Africa. Stakeholders will be interested both in understanding how the additional allocation represented by the EOI will tie in with the larger 3,126 MW allocation pursuant to the 9 August 2015 determination and how both programs will address some of the key thematic issues associated with the gas-to-power generally, including:

- the nature of the proposed strategic partnerships with SOCs;
- treatment of foreign-exchange risks (including fuel price and capital costs);
- requirements in relation to economic development obligations (including BBBEE and local content) across the value chain;
- amendments to the existing forms of power purchase and government support documentation used in previous IPP programs; and
- credit support and off-taker- and SOC-linked risk events.

Legal and Regulatory Framework

The adequacy, and where necessary, development of an appropriate legal and regulatory framework in connection with the use of gas for generation as well as for industrial use will also be a key stakeholder concern. To this end, the Minister of Energy also announced that the DOE has submitted a suite of legislation for consideration by Parliament which will either be introduced or concluded in the current financial year. This includes the amendment of the:

- **National Energy Regulation Act**, to create a two-tier energy regulatory structure; and
- **Gas Act**, focussing on midstream activities and empowering the Minister of Energy to direct the development of new gas infrastructure including pipelines, storage and regasification technology for imported LNG.

Given the widely discussed assumption that the gas-to-power program will, at least initially, be dependent on LNG imports and the limited number of potentially suitable ports available in South Africa for the construction of supporting infrastructure, players who secure a significant initial role in relation to whichever port is used for the Project and initial projects under the main 3,126 MW gas-to-power program, may derive strategic first mover advantages in relation to future developments in the gas-to-power space at each particular port and the overall development of a gas market in South Africa.

White & Case LLP
4th Floor, Block B 102 Rivonia Road
2196 Sandton, Johannesburg
Republic of South Africa
T +27 11 340 4000

In this publication, White & Case means the international legal practice comprising White & Case LLP, a New York State registered limited liability partnership, White & Case LLP, a limited liability partnership incorporated under English law and all other affiliated partnerships, companies and entities.

This publication is prepared for the general information of our clients and other interested persons. It is not, and does not attempt to be, comprehensive in nature. Due to the general nature of its content, it should not be regarded as legal advice.