# ENGINEERING AND ENERGY CONSULTANCY SERVICES





#### Introduction

This booklet is one of a series of 20 booklets prepared by MIDA for the purpose of providing investors with relevant information on establishing projects in the identified services sub-sectors in Malaysia. The complete list of booklets is as follows:

**Booklet 1:** General Policies, Facilities and Guidelines

**Booklet 2:** Regional Operations

**Booklet 3:** Research and Development (R&D) Services

**Booklet 4:** Logistics Services

**Booklet 5:** Specialised Technical Support Services

**Booklet 6:** Information and Communication Technology Services

**Booklet 7:** Environmental Management Services

**Booklet 8:** Distributive Trade Services

**Booklet 9:** Tourism and Travel Related Services **Booklet 10:** Education and Industrial Training Services

**Booklet 11:** Legal Services

**Booklet 12:** Accounting, Auditing and Taxation Services

Booklet 13: Architectural Consultancy ServicesBooklet 14: Surveying Consultancy ServicesBooklet 15: Medical and Healthcare Services

**Booklet 16:** Engineering and Energy Consultancy Services

**Booklet 17:** Management Consultancy Services

Booklet 18: Market Research ServicesBooklet 19: Advertising ServicesBooklet 20: Quick Reference

MIDA is the Government's principal investment promotion and development agency under the Ministry of International Trade and Industry (MITI) to oversee and drive investments into the manufacturing and services sectors in Malaysia. Headquartered in Kuala Lumpur Sentral, MIDA has 12 regional and 21 overseas offices. MIDA continues to be the strategic partner to businesses in seizing the opportunities arising from the technology revolution of this era. For more information, please visit www.mida.gov.my and follow us on Twitter, Instagram, Facebook, LinkedIn, TikTok and YouTube channel.

For the latest updates, please visit MIDA's website at www.mida.gov.my.

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## ENGINEERING AND ENERGY CONSULTANCY SERVICES

#### 1. UNDERSTANDING THE SUB-SECTOR



Power generation, transmission and distribution.



Oil/gas/coal-fired plants and hydro schemes.



Rural and urban electrification schemes.



**Electrical sub-stations** 



Utility services and production facilities for oil/gas and petrochemical industry.



Energy audit, study, training, application, management and conservation.



**Project management** 



**Turnkey services** 



Any other activities related to energy.

#### Includes:

- Advisory and consultative engineering services (86721);
- Engineering design services for the construction of foundations and building structures (86722);
- Engineering design services for mechanical and electrical installations for buildings (86723);
- Engineering design services for the construction of civil engineering works (86724);
- Engineering design services for industrial processes and production (86725);
- Engineering design services n.e.c (acoustical and vibration engineering designs) (86726);
- Other engineering services during the construction and installation phase (86727); and
- Other engineering services (86729).

Advisory and consultative engineering services in the energy sector Includes:

- provision of assistance, advisory and recommendation services concerning engineering matters.
- undertakings of preparatory technical feasibility studies and project impact studies in the energy sector.
- consultancy services for:
  - power generation, transmission and distribution;
  - oil/gas/coal-fired plants and hydro schemes;
  - rural and urban electrification schemes;
  - electrical sub-stations:
  - utility services and production facilities for oil/gas and petrochemical industry;
  - energy audit, study, training, application, management and conservation;
  - project management;
  - power quality management;
  - turnkey services; and
  - any other activities related to energy.

In Malaysia, the energy sector comprises oil, gas, coal, electricity (hydroelectricity and thermal), and renewable energy (e.g. biomass, solar, biogas, municipal waste, mini-hydro, wind).

#### 2. SETTING UP YOUR BUSINESS

#### 2.1 Registration with Companies Commission of Malaysia (SSM)

The setting up of engineering and energy consultancy services requires the intended professional to register with the Companies Commissions of Malaysia (SSM) under the Registration of Businesses Act 1956 or incorporate a company under the Companies Act 2016. A foreign company shall not carry on business in Malaysia unless it incorporates a local company or registers a branch in Malaysia.

A 'Foreign Company' is defined under the Companies Act 2016 as:

- a company, corporation, society, association or other body incorporated outside Malaysia;
   or
- an unincorporated society, association, or other body which under the law of its place of
  origin may sue or be sued, or hold property in the name of the secretary or other officer of
  the body or association duly appointed for that purpose and which does not have its head
  office or principal place of business in Malaysia.

### 2.2 Registration as an Engineering Consultancy Practice with the Board of Engineers Malaysia

Under the Registration of Engineers Act 1967, 'Engineering consultancy practice' means a sole proprietorship, partnership, or body corporate, providing professional engineering services,

registered under Section 7A or 7B. The Board of Engineers Malaysia (BEM) is the body that regulates the practice of engineering.

Only Professional Engineers with a Practicing Certificate are allowed to practice, carry on business, and/or take up employment which requires him to carry out or perform professional engineering consultancy services. Any candidate who applies for registration as a Professional Engineer with a Practicing Certificate must fulfill the following criteria:

- Has registered as a Graduate Engineer with BEM;
- Has satisfied the training requirements of BEM;
- Has passed the Professional Assessment Examination (PAE) of BEM or be elected as a Corporate Member of the Institution of Engineers Malaysia (IEM);
- Has been residing in Malaysia for a period of not less than 6 months immediately prior to the date of application as a Professional Engineer;
- After registration as Professional Engineer with BEM, has passed a professional competency examination conducted by the Board; and
- Has complied with other requirements as determined by the Board.

The certificate of registration for a Professional Engineer with a Practicing Certificate expires on 31 December every year, and yearly renewal is mandatory.

The requirements for setting up an Engineering Consultancy Practice in Malaysia are as follows:

Sole Proprietorship	<ul> <li>The proprietor is a Professional Engineer with a Practicing Certificate</li> <li>There is no minimum paid-up capital requirement.</li> </ul>
Partnership	All the partners are Professional Engineers with Practicing Certificates.
Body Corporate	Has a Board of Directors where at least two-thirds of its members are persons who are Professional Engineers with Practicing Certificates.
	At least 70 per cent of its share equity are held by Professional Engineers with Practicing Certificates.
	The minimum paid-up capital is RM50,000.

#### Multi-Disciplinary

- The Board of Directors comprises Professional Engineers with Practicing Certificates, Professional Architects, and/ or registered Professional Quantity Surveyors
- The shares shall be held by persons mentioned above and any of the following persons and/or bodies corporate where:
  - The Professional Engineers with Practicing Certificates, Professional Architects, and/or registered Quantity Surveyors, hold a minimum combined share of 60 per cent of the overall equity of that body corporate, and the Professional Engineers with Practicing Certificates hold a minimum share of 10 per cent; and
  - Any other person and/or body corporate respectively holds a maximum share of 30 per cent of the overall equity of the corporate body.
- The minimum paid-up capital is RM150,000.

The certificate of registration for an Engineering Consultancy Practice expires on 31 December of each year and is renewable yearly.

#### 2.3 Registration with Ministry of Finance (MOF)

Any consulting firm intending to tender for Government contracts must register with MOF using the codes specified by MOF.

Conditions that must be fulfilled for registration with MOF:

• Firm with accumulated/paid-up capital as follows:

Sole proprietorship - minimum of RM50,000;

Partnership - minimum of RM50,000; and

Sdn. Bhd. - minimum of RM50,000

- The firm needs to have a legitimate office address, whether leased or its own property.
- The business premise is not allowed to use the address of an online office, P.O. Box, mailing box office services, or other premises where the traceability and capacity of the firm is difficult to be determined.
- The firm must have at least three staff members under permanent employment and contributing to the Employees Provident Fund (EPF), with the following composition:
  - one (1) professional with at least one degree in a related field;
  - one (1) semi-professional with at least a diploma in a related field; and
  - one (1) clerk.
- The owner of the firm must be appointed as a full-time Director, and can be appointed as part of the professional staff or the management, but is not allowed to be appointed as a worker in the firm.

- The owner of the firm must have the necessary professional qualification in the field of expertise applied for, in accordance with the provision of the relevant laws and regulations, and is required to submit his relevant CV/work experience.
- The professional staff and the semi-professional staff are required to submit their first degrees or diplomas together with their relevant CVs/work experience.
- All equity/shareholders must have at least five (5) years of working experience in the field of expertise applied for after obtaining their first degree.
- The field of expertise submitted for registration with MOF must be consistent with the practising licence issued by the respective Professional Boards.
- The consulting firm needs to have an active current account.
- For professions whose ethics of service are governed by the Professional Boards, the
  equity/shareholders shall be registered with their respective Professional Boards. The field
  of expertise to be registered with MOF will be the expertise approved by the Professional
  Boards.
- For professions whose ethics of service are yet to be governed by the Professional Boards, the field of expertise to be registered with MOF will be based on the academic qualification and the working experiences of the owner.
- The consulting firm is required to submit its registration certificate with the Professional Board as compliance with the provisions of the Act of the Professional Board for purposes of carrying out consultancy services.

Application must be made through www.eperolehan.gov.my.

Please refer to the above website for policy of registration, registration code, and other relevant information.

#### 2.4 Licence/Registration with PETRONAS

#### 2.4.1 Licence

The issuance of the PETRONAS Licence is based on the Petroleum Development Act and Petroleum Regulations 1974. Based on this Act, an entity that wishes to provide goods/ services to the upstream sector in the oil and gas (O&G) industry in Malaysia must have a valid licence. The upstream sector includes but is not limited to O&G exploration, development, and production.

Issuance of the Licence is subject to the licence fee having been paid as stipulated in the Petroleum Regulations 1974.

#### 2.4.2 Registration

PETRONAS policy requires an entity to register with PETRONAS before participating in any tender for supply of goods/services to the downstream sector for the PETRONAS Group of Companies.

No registration fee is charged.

#### 2.4.3 Purpose of valid licence/registration

A company with a valid licence is allowed to supply goods/services to both upstream and downstream sector of the O&G industry in Malaysia.

A company with a valid registration is allowed to supply goods/services to the downstream sector of the O&G industry, serving Petronas subsidiaries only.

#### 2.4.4 General Requirements of the PETRONAS Licence/Registration

Applicants must comply with all general requirements below:

- Locally incorporated
  - o Registered with SSM as either "Sdn Bhd" (private limited) or "Berhad" (public limited) company.

The minimum paid-up capital is RM100,000 (for Licence) or RM10,000 (for Registration).

Paid-up capital is in the form of ordinary shares.

OR

o Registered with the relevant professional bodies, i.e. Board of Land Surveyor for 'Land Surveyor', Board of Valuers, Appraisers and Estate Agents Malaysia for 'Valuer', Board of Architects Malaysia for 'Architectural firm', or other relevant professional bodies.

The minimum capital or total value of contribution is RM100,000 (for Licence) or RM10,000 (for Registration).

Positive Net Worth

#### 2.4.5 Standardised Work & Equipment Category (SWEC)

Company must comply with respective SWEC requirements below:-

- Meet the minimum Bumiputera requirement at four levels, for the applied SWEC:
  - o Equity;
  - o Board of Directors;
  - o Management; and
  - o Employees

The minimum Bumiputera requirement at each level ranges from 100 per cent, 51 per cent, and 30 per cent. There are also SWECs with no requirement on Bumiputera participation.

#### Notes:

• Flexibility is given for public-listed companies, or private limited companies at least 51 per cent owned by a public-listed company, to hold a minimum of 35 per cent Bumiputera equity when applying for SWECs that have a minimum 51 per cent Bumiputera requirement. However, the Bumiputera requirement at the Board of Directors, Management, and Employees levels must follow the respective SWEC requirements.

- In the case where the applicant is a public-listed company, and is also at least 51 per cent owned by a public-listed company, the total Bumiputera equity of the applicant must be a minimum of 17.85 per cent on order to be eligible to apply for SWECs with minimum 30 per cent and 51 per cent Bumiputera requirements.
- For SWECs that require 100 per cent Bumiputera participation, the 100 per cent requirement only refers to "Equity", while the minimum Bumiputera requirements for the other levels are as follows:

- Equity - 100 per cent Bumiputera

Board of Directors - Minimum 75 per cent Bumiputera participation
 Management - Minimum 75 per cent Bumiputera participation
 Employee - Minimum 51 per cent Bumiputera participation

 Meet other SWEC requirements including Minimum Technical Requirement (MTR) and certification by external bodies as specified in the respective SWEC.

#### 2.4.6 Applications Involving Foreign Companies

Foreign companies may also participate in tenders in the Malaysian Oil & Gas industry by taking one of the following steps:

- Appointing a local company as an agent to serve as their local representative and service provider. The appointed agent must apply for the PETRONAS licence/ registration by complying with the general guidelines for PETRONAS Licencing/ Registration;
- Forming a Joint-Venture (JV) company with a local company/individual. The JV company must apply for the PETRONAS licence/registration by complying with the general guidelines for PETRONAS Licencing/Registration; and
- Forming a local branch. The branch must apply for the PETRONAS licence/registration by complying with the general guidelines for PETRONAS Licencing/Registration.

Applicants are advised to refer to the PETRONAS website at www.petronas.com.my to access the SWEC list, the minimum technical requirements for the related SWEC, and the mode of operations offered for each scope.

All types of applications for the PETRONAS licence/registration are accessible online through the PETRONAS Licence Management System (PLMS) at the PETRONAS website.

#### 2.5 Registration with the Malaysia Association of Energy Service Companies (MAESCO)

Energy Service Companies (ESCOs) that provide energy efficiency services are advised to register with MAESCO.

MAESCO was formed and registered with the Registrar of Societies in September 2000 to bring together ESCOs with the following objectives:

 To develop recognised ESCO businesses in collaboration with the Government and the private sector;

- To actively promote the activity of cost reduction and efficiency standards of the industrial and commercial sector;
- To oversee the well-being of its members;
- To facilitate and do all things necessary towards developing successful energy-related projects;
- To introduce related products and services for the industry;
- To foster healthy co-existence amongst members through ethical professional practices; and
- To ensure the prestige of services by members.

MAESCO is regulated by the Association's Constitution under the governance of the Societies Act 1966.

#### 2.6 Registration with MOF and Suruhanjaya Tenaga (ST)

To ensure successful implementation on energy efficiency improvement projects based on the Energy Performance Contracting (EPC) concept, ESCOs are required to register with MOF for EPC activities involving government buildings under the Green Technology Services Code.

The scope of work of an EPC contractor that requires registration includes supply of energy-efficient devices and equipment, consultancy services, contract works, energy audits, design engineering, project financing, management of EPC contracts, commissioning and services, operation and maintenance of equipment or energy-efficient installations, and inspection of energy efficiency improvement projects.

Consequently, MOF requires that ESCOs to be registered with ST, based on the following requirements and criteria:

- The applicant has registered the business with either the Registrar of Business or the Registrar of Companies as the case may be;
- The applicant has employed, on a full-time basis, a Registered Electrical Energy Manager as prescribed under the Efficient Management of Electrical Energy Regulations 2008;
- The applicant has access to suitable monitoring and testing equipment, and instruments required for energy efficiency management works; and
- The applicant has satisfactorily furnished all the information as stipulated in the application form.

The Certificate of Registration issued under this guideline is only valid for a period of one (1) year from the date of issuance of the said Certificate of Registration.

The renewal of the Certificate of Registration as an Energy Service Company must be made not less than one (1) month before the date of expiry of the registration.

ST may cancel the Certificate of Registration as an Energy Service Company if:

- The holder of the certificate ceases to carry on the business in respect of which he is registered;
- The holder of the certificate has been adjudicated a bankrupt; and
- The company goes into liquidation.

Where a Certificate of Registration as an ESCO is cancelled by Energy CommissionST, the Certificate must be returned within 14 days of the notification of the cancellation.

The completed application form, together with all the supporting documents and an application letter, must be submitted to the Director of Energy Management and Industry Development, ST, at the following address:

Director
Energy Management and Industry Development
Suruhanjaya Tenaga
No. 12, Jalan Tun Hussein
Presint 2,
62100 Putrajaya.

Please refer to the ST website at www.st.gov.my for latest information and updates.

#### 2.7 Business Licence

Companies intending to set up an office are required to obtain a business premise/signboard licence from the respective local authorities, depending on the nature of the business activity.

There are 155 local authorities in Malaysia responsible for approving business premise and signboard licences. The requirements for obtaining a business premise/signboard licence may vary from one local authority to another.

Applicants are advised to contact the relevant local authority (based on the location of the business premises) regarding the specific rules and regulations pertaining to business premise/signboard registration. The fees may vary according to each of the local authorities.

Contact details for local authorities are available in the Quick Reference Booklet in this series.

#### 3. EQUITY POLICY

To increase local participation in business, the Government encourages joint ventures between Malaysian and foreign investors.

Companies intending to provide engineering services to PETRONAS must comply with the stipulated Bumiputera equity requirements.

#### 3.1 Multi-Disciplinary Practice

Under the Registration of Engineers Act 1967, 7B subsection (2), 'the body corporate that applies for registration under subsection (1) Registration of Engineers Act, 1967 must be incorporated under the Companies Act, 2016 and:

- a) has a board of directors comprising Professional Architects, Professional Engineers and/or registered Quantity Surveyors.
- b) has shares held by the persons mentioned in paragraph (a) and any of the following persons and/or bodies corporate where:

- i. the Professional Engineers, Professional Architects, registered Quantity Surveyors, bodies corporate providing professional engineering services, bodies corporate providing architectural consultancy services and/or bodies corporate practising as consulting Quantity Surveyors hold a minimum combined share of 70 per cent of the overall equity of that body corporate, of which the Professional Engineers and/ or bodies corporate providing professional engineering services hold a minimum share of 10 per cent; and
- ii. any other persons, including persons belonging to a profession allied to engineering, architecture, or quantity surveying, being a professional approved in writing by the board regulating the profession of engineering, architecture or quantity surveying, respectively, hold a maximum share of 30 per cent, of the overall equity of the body corporate; and
- c) has a minimum paid-up capital which shall be an amount to be determined by the Minister.'

#### 4. OBTAINING TAX INCENTIVES

#### 4.1 Green Technology Incentives

As a measure to strengthen the development of green technology, the Government will continue to provide incentives in the form of investment tax allowance for the purchase of green technology assets and income tax exemption for the use of green technology services and system.

In Budget 2020, the Government had announced the extension of the Investment Tax Allowance (ITA) for the purchase of green technology assets, and Income Tax Exemption (ITE) on the use of green technology services and systems. The ITE is also extended for companies undertaking solar leasing activity.

#### **Green Investment Tax Allowance (GITA - Project)**

- ITA of 100 per cent of qualifying capital expenditure incurred by green technology projects for 3 years from the date of the first qualifying capital expenditure (CAPEX) incurred.
- The date of first qualifying CAPEX shall not be earlier than the date of the application received by MIDA.
- The allowance can be offset against 70 per cent of statutory income in the year of assessment.
- Green technology projects include those related to renewable energy, energy efficiency, green buildings, green data centres, and integrated waste management.

Please refer to the Guideline for Application for Incentives and/or Expatriate Posts for Green Technology (GT) at www.mida.gov.my for more details on qualifying activities and eligibility criteria.

Applications should be submitted to MIDA online via the InvestMalaysia Portal. For more information, visit the Forms and Guidelines section on MIDA website.

This incentive expires on 31 December 2023, and applications should be submitted to (and received by) MIDA on or before this date.

#### **Green Income Tax Exemption (GITE)**

#### Services

- ITE of 70 per cent on statutory income for qualifying green services where:-
  - The period of the incentive is for three (3) years starting from the assessment year of the first invoice related to green technology services issued; and
  - The date of the first invoice shall not be earlier than the date of the application received by MIDA.
- The qualifying green services activities include renewable energy, energy efficiency, electric vehicles (EVs), green buildings, green data centres, green certification and verification, as well as green townships.

Please refer to the Guideline for Application for Incentives and/or Expatriate Posts for Green Technology (GT) at www.mida.gov.my for more details on qualifying activities and eligibility criteria.

Applications should be submitted to MIDA online via the InvestMalaysia Portal. For more information, visit the Forms and Guidelines section on MIDA website.

This incentive expires on 31 December 2023, and applications should be submitted to (and received by) MIDA on or before this date.

#### **Solar Leasing**

• ITE of 70 per cent on statutory income for solar leasing activity for a period of up to ten (10) years of assessment. This incentive will be considered based on tiers as follows:

Capacity (MW)	Incentive Period
>3MW- ≤10MW	5 years
>10MW- ≤30MW	10 years

• The incentive period shall commence from the date of the first invoice issued, and this date shall not be earlier than the date of the application received by MIDA.

Applications should be submitted to MIDA online via the InvestMalaysia Portal. For more information, visit the Forms and Guidelines section on MIDA website.

This incentive expires on 31 December 2023, and applications should be submitted to (and received by) MIDA on or before this date.

#### **GITA Assets**

The GITA Assets incentive has been extended from YA 2020 to YA 2023 under Budget 2020. A company which purchases green technology assets listed in the MyHijau Directory (www. greendirectory.com), which have been certified by the Malaysia Green Technology and Climate Change Centre (MGTC) and approved by the MINISTRY OF FINANCE, is eligible for ITA of 100 per cent of qualifying capital expenditure incurred by the approved green technology assets. The allowance can be offset against 70 per cent of statutory income in the year of assessment.

Applications should be submitted to MGTC online at https://www.mgtc.gov.my/our-services/green-investment-tax-incentives-gita-gite/.

This incentive expires on 31 December 2023, and applications should be submitted to (and received by) MGTC on or before this date.

#### 5. EMPLOYING EXPATRIATE PROFESSIONALS

#### **5.1 Employment of Foreign Engineering Professionals**

Any foreigner who is not a permanent resident of Malaysia, and who wishes to be employed as an engineer in Malaysia, shall obtain temporary registration from BEM as provided under Section 10A of the Registration of Engineers Act 1967.

A temporarily registered Professional Engineer can only submit plans and drawings for the project he is assigned to. He or she is not permitted to be a director or shareholder of a local company/firm practising as consulting engineers in Malaysia, and is not allowed to set up his or her own consultancy practice in Malaysia.

The temporary registration will lapse upon the completion of the project to which the foreign engineer is assigned. If the sponsor desires to reassign the foreign engineer to a new project, the sponsor must seek prior approval from BEM. In the case whereupon the completion of a project, a new sponsor desires to employ the foreign engineer for another project, the new sponsor must submit a fresh application to BEM in the usual manner.

The requirements for obtaining temporary registration are as follows:

- He holds the necessary qualifications which are recognised for practice as a Professional Engineer in the country where he normally practises.
- He has the necessary expertise and has a minimum of 10 years' experience in the field he intends to practise.
- His physical presence is required in Malaysia for not less than 180 days in one calendar year.
- He is employed as an engineer and has been assigned to a specific project by a particular company.
- He is sponsored by a local Professional Engineer in the company which offers him the assignment.
- The sponsor has to confirm that no local expertise is available, and must attach local engineers to be trained by the Temporary Professional Engineer.

Any foreign engineer who is not satisfied with the decision of BEM in rejecting his application for temporary registration or the renewal of such registration may appeal to the Minister of Works through the Registrar's office. All such appeals must be made within 21 days of being notified of the rejection.

The certificate of registration expires on 31 December of each year, regardless of whether the project is completed or not.

The company or organisation must apply for approval to employ expatriates from the Expatriate Committee of the Immigration Department.

Upon approval of the expatriate post, the company should forward its application for Employment Pass to the Immigration Department for endorsement.

Spouses and children of expatriates can apply for Dependant Passes once the expatriates have been issued with the Employment Pass. The Dependant Passes may be applied for either together with the application for the Employment Pass or after the Employment Pass has been approved. Spouses and children of expatriates who enter the country on visit (temporary employment or professional) passes will be issued visit (social) passes.

#### 5.2 Employment of Foreign Energy Services Professionals

ESCOs can apply for foreign expatriates to be employed in energy efficiency projects. ESCOs can submit their applications by completing and submitting Form GT/JA to:

Malaysian Investment Development Authority (MIDA) MIDA Sentral No. 5, Jalan Stesen Sentral 5 Kuala Lumpur Sentral 50470 Kuala Lumpur Malaysia

Tel: +603 2267 3633 Fax: +603 2274 7970

Email: investment@mida.gov.my

### 6. GENERAL AGREEMENT ON TRADE IN SERVICES (GATS), ASEAN FRAMEWORK AGREEMENT ON SERVICES (AFAS) AND FREE TRADE AGREEMENTS (FTAs)

Updates and information regarding the Schedule of Specific Commitments of GATS, AFAS, and FTAs are available from MITI's website at www.miti.gov.my.



#### **Malaysian Investment Development Authority**

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