



Ministry of Energy

FEED-IN TARIFF POLICY APPLICATION AND IMPLEMENTATION GUIDELINES

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1 INTRODUCTION

The purpose of these Feed-in-Tariff (FiT) Policy Application and Implementation Guidelines is to provide information on procedures and timelines for the application, assessment and implementation of grid-connected electricity generation projects under the Feed-in-Tariff Policy on Wind, Biomass, Small Hydro, Geothermal, Biogas and Solar.

The FiT Application and Implementation Guidelines should be read in conjunction with the Feed-in-Tariffs Policy, the Connection Guidelines for Small Renewable Generating Plant and other relevant laws, regulations and policies applicable to electricity generation and renewable energy projects in Kenya.

Implementation of a renewable energy power plant project generally consists of the following steps:

- a) Site and project identification
- b) Feasibility studies
- c) Land acquisition
- d) Licencing and consents
- e) Financing
- f) Engineering, procurement and construction
- g) Testing and commissioning
- h) Operations, maintenance and reporting

Potential FiT projects applicants are encouraged to ensure that they have or are able to constitute a team that has adequate experience, knowledge and plan sufficient time and monetary resources for the project from inception to completion.

The FiT Policy and other relevant documents are available free-of-charge on the websites of the Ministry of Energy (www.energy.go.ke) and the Energy Regulatory Commission (www.erc.go.ke). Announcements, revisions and other documents will be posted on these government websites as they become available.

2 OVERVIEW OF THE FiT PROCEDURE

In order to invest in and develop a renewable electricity generation project under the FiT Policy a number of steps must be undertaken, an overview and estimated timeline of which is provided below:

<i>Milestone</i>	<i>Responsibility</i>	<i>Timeline</i>
Project applicant identifies and undertakes a prefeasibility assessment of the proposed project site	Applicant	
Submission of Expression of Interest (EOI) Project Application Form to Ministry of Energy	Applicant	Start

Review of EOI. The EOI may be approved for three-year exclusivity period or rejected. The applicant may be required to provide further information in support of their EOI before acceptance or rejection.	Feed-in-Tariff Committee	3 months
Project full feasibility study	Applicant	24 months
Review of feasibility study	Feed-in-Tariff Committee	3 months
Conclusion of Non-Negotiable Power Purchase Agreement	Applicant/Off-taker	4 months
Approval of PPA by national Regulator	Regulator	3 months
Project development, construction and commissioning	Applicant	1-3 years

The project applicant will be responsible for obtaining all other legal, technical, regulatory, contractual, permitting and all necessary requirements for the feasibility, development, approval, financing, engineering, procurement, construction, commissioning and operations of the proposed project.

The implementation of the Feed-in-Tariffs Policy is a continuous process. Project applications will be processed and approved on a first-come, first-served basis.

3 EXPRESSION OF INTEREST APPLICATION

The Expression of Interest (EOI) is the first communication of the project applicant's intention to develop a renewable energy project under the FiT Policy. It is expected that a project applicant has done some preliminary appraisal work on the proposed project and can provide basic information on the location, renewable energy resource, estimated energy output, expected development timeframe and other information of relevance to the Ministry of Energy to facilitate decision making.

The information provided in the EOI should be sufficient to demonstrate the applicant's commitment and ability to proceed with further development of the proposed project if an approval to proceed is granted.

An EOI approval shall be requested through the submission of a FiT Project Application Form. The FiT Project Application Form must be accompanied by a 1:50,000 topographic, Google Earth or other map of the project location with a preliminary indication of the planned project infrastructure, proposed grid connection point and proposed routing of the power line. A pre-feasibility study report or other studies already available should also be submitted with the application. Review of a proposed project will only begin once a completed FiT Project Application Form has been received.

The EOI application shall be submitted to the Ministry of Energy via post, courier or hand delivered to the Ministry of Energy address provided at the end of this FiT Guide. No fee is charged for the EOI application and processing.

A Feed-in-Tariff Committee (FiT Committee) comprising representatives of the Ministry of Energy, the Off-taker and the national energy sector regulator and other energy stakeholders will review the EOI application and make its assessment. EOI applications may be shared with other

relevant line agencies that may have comments to make on the initial proposal and to involve them in the process at an early stage to expedite ancillary approvals that must be obtained by the project.

The Ministry of Energy shall respond in writing to the applicant within three (3) months of having received the completed FiT Project Application Form. The communication to the applicant shall either:

- a) Provide approval to proceed with the development of the project under the Feed-in-Tariff Policy and give guidance on further steps or;
- b) Request further information that is reasonably required for the assessment of the EOI application before a decision can be taken; or
- c) Reject the EOI proposal stating the reasons for such decision

Reasons for rejection may include:

- Lack of adherence to the EOI application guidelines and FiT policy
- Project site has already been allocated to another project applicant
- Project is in or significantly impacts on a protected area or other site of national importance
- Failure of the applicant to demonstrate capability to develop the proposed project

EOI approval requests will be reviewed on a first come, first served basis. In the case of a conflicting claim by two or more project applicants for the same proposed site, the project applicant whose completed FiT Project Application Form was first received by the Ministry of Energy as evidenced by the stamped date of receipt shall be granted the EOI approval as long as there are no reasons to reject the application.

Once an EOI application is approved, the project applicant shall be entitled to a three (3) year exclusivity period to further assess and develop the project. It is expected that three years is sufficient time within which to either (a) develop the project to achieve bankability and reach financial closure or make significant progress towards such milestone or (b) make an informed decision to abandon the project due to poor project viability.

4 ELIGIBLE APPLICANTS

As stipulated in the FiT Policy, an EOI application must be submitted by and awarded in the name of an entity legally registered in Kenya, such as a private or public company, a limited liability partnership, a civil society organization, a trust, a public agency or government authority.

In order to ensure consistency and avoid delays in the project development cycle with regards to approvals, financing and project transactions, project applicants are encouraged to submit EOI

applications in the name of a special purpose company dedicated solely to the objective of realizing the proposed project. Applicants should note that joint ventures and partnerships are allowed.

5 PROGRESS REPORTS

During the three-year exclusivity period, the EOI-approved project applicant will be the sole legal entity with the right to assess and develop the site as a proposed renewable energy generation project under the FiT Policy. The project applicant is required to carry out detailed feasibility studies and obtain all necessary approvals and financing to show that the project is bankable. Such studies, approvals and confirmation of financing provide a basis for the Power Purchase Agreement with the Off-taker.

In order to keep the FiT Committee updated and ensure project progress, the applicant will be required to submit project progress reports at six (6) month intervals. Such reports must be submitted in the form of a completed FiT Project Progress Report Template with relevant supporting documents including feasibility study reports and approvals.

Project progress will be assessed using the FiT Project Progress Assessment Criteria. If no Project Progress Report is submitted, or a Project Progress Report indicates that the applicant has not been able to meet certain project development milestones provided and sufficient justification and a remedial plan of action are not given, the FiT Committee may recommend revocation of the EOI approval.

If the project will not have reached financial closure, the FiT Committee shall review the status of the project and inform the project applicant of the decision to either:

- a) Extend the EOI approval exclusivity for a further period based on the substantial progress made and the likelihood of financial closure being achieved, or
- b) Withdraw the EOI approval from the project applicant and make the site available to other developers

Projects that have had their PPAs signed, having reached financial closure shall retain their status as Feed-in-Tariff approved projects until the end of the term of the Power Purchase Agreement unless they fail to achieve milestones agreed in the PPA such as start of construction or commissioning or fail to adhere to other legal or regulatory requirements.

If a project applicant intends to abandon a project site allocated under the EOI process, the applicant should inform the Ministry of Energy in writing as soon as possible.

In the case that a project applicant is found to have provided false information, ceases to carry on business, goes into liquidation or is found to be involved in corrupt practices the Ministry reserves the right to revoke the EOI approval.

6 GRID CONNECTION STUDY

The developer will be required to conduct a grid connection study and enter into discussion with the off-taker. The grid connection study shall take into account the Kenya Grid Code and, for Small Scale Producers, relevant information in the Guidelines for Grid Connection of Small Scale Renewables.

The cost of such grid connection studies shall be borne by the project applicant. The requirement of a grid connection study applies to both Small Renewable Energy Generators and large-scale Generators under the FiT.

7 POWER PURCHASE AGREEMENT

Small Renewable Energy Generators

A standardized, technology-neutral Power Purchase Agreement (PPA) for renewable energy electricity generation projects of up to and including 10 MW will be signed between the off-taker and an applicant whose project has demonstrated viability and met all licensing and financing requirements. The project grid connection arrangement shall be discussed and agreed between the off-taker and the project applicant.

The Standardised PPA shall be offered to an applicant who has demonstrated significant progress towards reaching financial closure and is able to provide:

- Proof of land acquisition, access or usage rights
- Full technical and economic feasibility study
- Grid connection plan
- Environmental Impact Assessment (EIA) License
- Other relevant permits and approvals Engineering, procurement and construction plan Evidence of financial capability

The National Energy Regulator shall approve each PPA in accordance with the Energy Act.

Once the PPA has been signed the applicant shall apply for a generation license or permit from the National Energy Regulator which shall be issued in accordance with the energy act and energy (licensing) Regulations.

Large-scale renewable energy generators

Large-scale producers (>10 MW) shall follow a similar process to secure a PPA as Small Power Producers, but with the following variations:

- The Standardized PPA for generators greater than 10 MW will be used
- Will be subject to dispatch instructions by the system operator

8 PUBLIC AVAILABILITY OF INFORMATION

The Ministry of Energy and The National Energy Regulator shall maintain a publicly available list of EOI-approved projects on their websites with the following information:

- EOI approval registration number
- Date of EOI approval
- Name of project site/location
- Geographical coordinates of project site/location
- Project technology type
- Planned installed capacity

9 CONFIDENTIALITY

All documentation provided by EOI project applicants and EOI approved project developers shall remain the property of the project applicant and shall be held in confidence and only be used by the Ministry of Energy and FiT Committee for the purpose of evaluating proposed projects, assessing progress against milestones. Confidential information may from time to time be shared with other government agencies of relevance and, where required by law, may be part of a public consultation process.

10 COMMUNICATION

All correspondence regarding the FiT Policy, EOI applications, progress reports and enquiries on Feed-in-Tariff procedures and implementation should be addressed to:

The Permanent Secretary
Ministry of Energy
23rd Floor, Nyayo House
P.O. Box 30582-00100
Nairobi, Kenya

Telephone: +254 20 310 112
Telefax: +254 20 2240 910
Email: ps@energymin.go.ke

FIT EXPRESSION OF INTEREST PROJECT APPLICATION FORM

For official use only

Project reference number					
Date of submission of application					
Date of receipt of application					
Application form complete?	Yes		No		
Date of FiT Committee review					
Decision of FiT Committee	Approve		Reject		Request more info
Date of response to applicant					

Instructions to applicants:

Please complete the FiT Expression of Interest Project Application Form in full. Where information requested is not relevant or not available, please indicate such or provide relevant alternative information.

Project Applicant Contact Information	
Full legal name of applicant	
Mailing address	
Physical address if different from mailing address	
Telephone number	
Fax number	
Email address	
Website	
Primary contact person	
Project Applicant Organization Details	
Type of legal entity (e.g. private limited company)	
Date of incorporation/registration	
Incorporation/registration certificate number	
Income tax registration (PIN) certificate number	
Value added tax (VAT) registration certificate number	
Authorized share capital	

Applicant ownership, management or shareholder structure						
Names and nationalities of key shareholders or managers						
Description of main or related business activities						
Description of experience with renewable energy projects						
Proposed Project Location						
<i>Please enclose with your FiT Project Application Form a 1:50,000 topographical, Google Earth or other map of the project site in electronic and or print form clearly identifying the intended project boundaries, the preliminary locations of the main project infrastructure (if known), the proposed grid connection point and the proposed power line routing.</i>						
Site name						
Geographical coordinates of project site boundaries						
Site elevation above sea level						
Nearest urban centre						
Location/Division						
County						
Distance to nearest access road						
Distance to proposed grid connection point						
Legal status/classification of the land at the project site						
Current ownership of the land at the project site						
If the project applicant does not currently have access to the land rights, please provide a brief description of how the applicant intends to acquire such						
Description of the Proposed Project						
<i>Technology type (please tick one)</i>						
Wind	Hydro	Solar	Geothermal	Biomass (grown)	Biomass (waste)	Biogas
Project name						
Brief summary of energy resource assessment results (e.g. wind speeds, river flow, solar irradiation level, feedstock availability, etc)						
Planned installed capacity (MW)						

Anticipated annual electricity generation (MWh)	
Description of any preliminary environmental or social considerations to be addressed	
Preliminary Project Economics and Financing	
Estimated project development costs to reach financial closure	
Projected project CAPEX	
Expected debt/equity ratio	
Source(s) of equity financing	
Source(s) of debt financing	
Evidence of the availability of adequate development and equity funds or description in which the required financing will be obtained	
Overview of any local benefits that are expected to derive from the project	
Information on Project Applicant Partners	
<i>Please provide, where known, the name(s) of the consultants, technical experts, advisors, equipment suppliers, contractors and other partners with whom the applicant is working or intends to work to develop the proposed project. In each case, please provide a brief description of the partner(s)' capabilities</i>	
Feasibility study consultant(s)	
Other project technical expert(s)	
Legal advisor(s)	
Financial advisor(s)	
Anticipated equipment supplier(s)	
Engineering, procurement and construction contractor(s)	
Project Development and Implementation Plan	
<i>Please provide an outline of the proposed project development and implementation plan with anticipated dates of relevant milestones from the date of EOI approval by the Ministry of Energy.</i>	
Full feasibility study	
Land acquisition	
Environmental Impact Assessment Licence	
Grid connection study	

Other consents and approvals	
Financial closure	
Construction	
Commissioning	
Further Information	
<i>The Applicant will be required to attach a prefeasibility study or energy resource assessment report. Please provide any further information that may be relevant for the assessment of your EOI application such as , any initial approvals secured by the project applicant, land rights agreements, etc.</i>	
Project Applicant Signature	
<i>Please sign this FiT Project Application Form to confirm that the information provided herein is accurate and to acknowledge that the project applicant has read and understood the Feed-in-Tariff Policy, the Feed-in-Tariff Guidelines and other relevant policies, laws and regulations for electricity generation</i>	
Name of representative of the applicant	
Title of representative	
Signature	
Date and place	

FIT PROJECT PROGRESS REPORT FORM

For official use only

Project reference number	
Date of EOI approval	
Date of receipt of this progress report	

Instructions to EOI approved projects:

Please complete the FiT Project Progress Report Form in full. The Progress Report and any accompanying documentation will be used to assess the progress of your project towards demonstrating project viability and achieving financial closure. Please only fill in the section of the form that corresponds to the number of the report you are submitting, but for each report please complete the “project summary” and “overview of project progress” sections.

Please check as appropriate

Report 1	Report 2	Report 3	Report 4	Report 5	Report 6

Project Summary	
Project owner	
Project name	
Project location	
Technology type	
Planned installed capacity (kW)	
Anticipated annual electricity generation (MWh)	
Proposed connection point and distance thereto from the project	
Overview of Project Progress	
<p><i>Please provide a short descriptive summary of progress made to date/since the last progress report including an overview of major milestones achieved and areas where delays or difficulties were experienced. If the project design or implementation plan has changed significantly since the last report, please indicate such giving the reasons why and how this may affect the project moving forward.</i></p>	

Progress Report 1	
<i>Please provide a brief status update for each milestone, including the date on which the milestone was reached or what is still required. Where available, please enclose a copy of any relevant documentation</i>	
Prefeasibility study	
Energy resource measurement equipment installed or energy yield assessment conducted, as applicable	
<ul style="list-style-type: none"> • Wind = 40m+ mast installed? • Hydro = river gauge installed or hydrological assessment? • Solar = meter installed or energy yield assessment? • Geothermal = surface reconnaissance survey? • Biomass = feedstock analysis? • Biogas = feedstock analysis? 	
Land ownership and status identified	
EIA terms of reference prepared	
Grid connection point and power line routing identified	
Equity and debt term sheets	
Consents and statutory approvals	
Other milestones	
Progress Report 2	
<i>Please provide a brief status update for each milestone, including the date on which the milestone was reached or what is still required. Where available, please enclose a copy of any relevant documentation</i>	
Detailed resource/energy yield assessment/full feasibility study	
Land acquisition status	
Site survey and layout study	
Technology/equipment selection	
Access and road transport study	
Engineering and construction study	
Grid connection study	
Financial model	
Detailed project implementation and operations plan	
EIA contract or report	
Equity and debt term sheets	
Consents and statutory approvals	
Other milestones	

Progress Report 3

Please provide a brief status update for each milestone, including the date on which the milestone was reached or what is still required. Where available, please enclose a copy of any relevant documentation

Detailed resource/energy yield assessment/full feasibility study	
Land acquisition status	
Site survey and layout study	
Technology/equipment selection	
Access and road transport study	
Engineering and construction study	
Grid connection study	
PPA requested	
Financial model	
Detailed project implementation and operations plan	
EIA report or licence	
Equity and debt loan agreements	
Consents and statutory approvals	
Major contracts (e.g. feedstock supply, drilling, equipment supply, EPC,	
Other milestones	

Progress Report 4

Please provide a brief status update for each milestone, including the date on which the milestone was reached or what is still required. Where available, please enclose a copy of any relevant documentation

Detailed resource/energy yield assessment/full feasibility study	
Final project design and implementation plan	
Land acquisition status	
Technology/equipment selection	
Grid connection agreement	
PPA signed	
Financial model	
Detailed project implementation and operations plan	
EIA report or licence	
Consents and statutory approvals	
Major contracts (e.g. feedstock supply, drilling, equipment supply, EPC, O&M)	
Financial closure achieved or imminent	
Construction	
Other milestones	

Progress Report 5

Please provide a brief status update for each milestone, including the date on which the milestone was reached or what is still required. Where available, please enclose a copy of any relevant documentation

Final project design and implementation plan	
Signed land agreements	
Technology/equipment selection	
Grid connection agreement	
PPA signed	
Financial model	
Detailed project implementation and operations plan	
EIA licence	
All consents and statutory approvals	
Major contracts (e.g. feedstock supply, drilling, equipment supply, EPC, O&M)	
Financial closure achieved or imminent	
Construction	
Other milestones	

Progress Report 6

Please provide a brief status update for each milestone, including the date on which the milestone was reached or what is still required. Where available, please enclose a copy of any relevant documentation

Final project design and implementation plan	
Signed land agreements	
Technology/equipment selection	
Grid connection agreement	
PPA signed	
Financial model	
Detailed project implementation and operations plan	
EIA licence	
All consents and statutory approvals	
Major contracts (e.g. feedstock supply, drilling, equipment supply, EPC, O&M)	
Financial closure achieved or imminent	
Construction	
Other milestones	

Further Information

<i>Please provide any further information that may be relevant for the assessment of progress made</i>	
Project Owner Signature	
<i>Please sign the FiT Project Progress Report Form to confirm that the information provided herein is accurate</i>	
Name of representative of the project owner	
Title of representative	
Signature	
Date and place	

FIT PROJECT PROGRESS ASSESSMENT CRITERIA

For internal use only

Project reference number			
Date of EOI approval			
Date of receipt of Progress Report 1			
Applicant making sufficient progress?	Yes	No	
Main reasons			
Date of receipt of Progress Report 2			
Applicant making sufficient progress?	Yes	No	
Main reasons			
Date of receipt of Progress Report 3			
Applicant making sufficient progress?	Yes	No	
Main reasons			
Date of receipt of Progress Report 4			
Applicant making sufficient progress?	Yes	No	
Main reasons			
Date of receipt of Progress Report 5			
Applicant making sufficient progress?	Yes	No	
Main reasons			
Date of receipt of Progress Report 5			
Applicant making sufficient progress?	Yes	No	
Main reasons			
Date of decision to extend or withdraw EOI approval			

Following receipt of EOI-approved project applicant FiT Project Progress Reports and accompanying documentation, the FiT Committee shall assess projects against transparent criteria to evaluate how well the project is progressing or if EOI approval should be withdrawn due to lack of progress or commitment. The following seven aspects form the basis for the assessment:

1. Feasibility and design studies. Have credible full feasibility and design studies been undertaken by qualified experts that indicate project technical and economic viability?
2. Access to land. Has the project applicant demonstrated that it has unequivocal rights or acquisition rights to the project land in question in the form of signed or registered ownership, lease or access agreements?
3. Environmental Impact Assessment (EIA) approval. Has the project applicant conducted an Environment Impact Assessment (EIA) that does not result in a “no go” situation and have relevant mitigation measures been adopted as evidenced by the issuance of the EIA licence?
4. Grid connection. Has the grid connection study been undertaken in cooperation with the grid system operator to confirm the project technical connection requirements and costs and has the grid operator accepted the proposed connection arrangement?
5. Other statutory approvals. Has the project applicant obtained or is in the process of obtaining all other consents and approvals required by the different line agencies such as local authority approval, resource use or access rights (forest, water, sub-surface, etc), project site, access and construction consent, etc?
6. Financing. Can the project demonstrate with signed agreements that it has or will secure the necessary equity and debt financing to reach financial closure, engineer, build, operate and maintain the proposed power plant?
7. Contracts. Has the project applicant prepared or signed contracts for the provision of services and equipment for the construction, operations and maintenance of the projects?

Check list of Key issues	Remark
<i>Feasibility and design studies</i>	
Prefeasibility study	
Detailed resource/energy yield assessment	
Site survey and layout study	
Access and road transport study	
Technology/equipment selection	
Engineering and construction study	
Economic and financial model	
Project implementation and operations plan	
<i>Access to land</i>	
Project land area, ownership and status identified	
Local authority consent for land registration, rezoning, etc	
Signed agreements for land acquisition or use	
<i>Environmental Impact Assessment approval</i>	
EIA Terms of Reference or EIA contract	
EIA draft and final reports	
EIA submission to National Environment Management Authority	
EIA licence	
<i>Grid connection</i>	
Grid connection point and power line routing identified	
Detailed grid connection study	
Power line way leave access rights	

Final grid connection design and agreement incorporated into PPA	
<i>Other statutory approvals (as applicable)</i>	
Kenya Civil Aviation Authority	
Water Resource Management Authority	
Kenya Wildlife Service	
Kenya Forest Service	
Geothermal exploration licence	
National Highway and Roads Board	
National Museums of Kenya	
Communication Commission of Kenya	
Local authorities (planning consent for construction, etc)	
Energy Regulatory Commission	
Ministry of Defence	
Other	
<i>Financing</i>	
Evidence of sources of equity and debt finance	
Equity and debt term sheets	
Development and loan agreements	
<i>Contracts</i>	
Tender documentation terms of reference	
Equipment supply contract	
Engineering, procurement and construction contract	
Operations and maintenance contract	
Decision	

The above check list is for internal use but is provided to project applicants for transparency. The criteria and categories are subject to some flexibility depending on the project technology (wind and geothermal resource assessment may take longer than that for solar or biomass, for example) and the approach of the project developer. Nevertheless a similar assessment process will be followed to evaluate progress of each EOI approved applicant.