



EXECUTIVE SUMMARY OF THE PETROLEUM LICENSING ROUND REGULATIONS, 2022

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Introduction

The Petroleum Licensing Round Regulations, 2022 (“The Regulation”) was established to provide a seamless procedure and regulatory framework for conducting a fair, transparent and competitive bidding process for the grant of petroleum prospecting licence and petroleum mining lease.

In line with Regulation 3 of the Regulation, every bidding process for the grant of petroleum prospecting licence and petroleum mining lease shall be fair, transparent and competitive. The process must comply with the provisions of the Petroleum Industry Act (“The Act”).

Highlights of the Regulation

Publication of Licensing Rounds

Before the commencement of a Licensing Round, the Nigerian Upstream Petroleum Regulatory Commission (“The Commission”) shall;

- 📄 Issue a press statement and publish the commencement of the proposed licensing round on its Website, two national newspapers and two international financial newspapers as may be determined by the Commission;
- 📄 Issue and publish licensing round guidelines on its Website not later than 30 days before the bid date; and
- 📄 Open a data room, which shall be accessible by bid participants.

The Commission shall give bid participants sufficient time to evaluate all geological, geophysical, technical, economic and fiscal conditions relating to a block, however, the time shall not be more than 365 calendar days.



Licensing Round Guideline

According to the provisions of Section 75 of the Act, the Licensing round guideline (“the guidelines”) shall contain:

- ▣ the anticipated calendar of events;
- ▣ the procedure for engagement with bid participants and stakeholders;
- ▣ the provisions relating to pre-qualification of participants;
- ▣ the provisions relating to participation by consortia;
- ▣ the nature of companies that cannot participate in the bidding process;
- ▣ the procedure for submitting and opening bid proposals;
- ▣ the nature and amount of the work commitment guarantee by the participant;
- ▣ the confidentiality agreement to be signed for access to the data room;
- ▣ the procedure for modification of the guidelines; and
- ▣ any other information that may be required by the Commission.

Pre-Qualification of Applicants

Regulation 10 of the Regulation provides for three categories of criteria which participants in a licence round process shall be assessed and must possess in order to qualify for a licensing bid. They are: Legal Criteria, Financial Criteria and Technical Criteria.

Legal Criteria

A company seeking to enter a licencing bid must be duly incorporated pursuant to the provisions of Section 21 of the Companies and Allied Matters Act, 2020 and must submit its incorporation documents to enter the bid. The company may also be required by the guidelines to submit other documents/information.

Financial Criteria

The financial criteria required to pre-qualify shall include such financial information as may be prescribed in the guidelines issued by the Commission.



Technical Criteria

The technical criteria required to pre-qualify shall include the following:

- ▣ Evidence of the oil and gas fields operated, for a duration stipulated in the licensing round guidelines prior to the commencement date of the licensing round;
- ▣ The total level of daily net production to the operator, which shall as a minimum be equal to the number of fields and daily net production indicated in the licensing round guidelines to pre-qualify as operator, except where exempted under the licensing round guidelines; and
- ▣ Such other information as may be prescribed in the licensing round guidelines issued by the Commission.

Requirements

- ▣ Where an applicant in a bidding process is a consortium, all members of the consortium or at least one member designated as the operator must satisfy the legal, financial and technical criteria.
- ▣ Where an applicant is a newly incorporated company in Nigeria, it may provide information of the parent company or parent companies as specified by the guidelines.

Rejection of Applicant

An applicant may be rejected from participating in a bid process where:

- ▣ The applicant does not comply with one or more of the pre-qualification criteria;
- ▣ The commission cannot verify an information provided by the applicant due to the fact that the information supplied is not verifiable;
- ▣ The applicant creates obstacles to or tries to influence the pre-qualification directly or through a third party, or
- ▣ The applicant presents false, misleading or incomplete information.



Companies excluded from participating in the bidding process

In line with Regulation 11 of the Regulation, the Commission may exclude a pre-qualified applicant from participation in the bid process, where the applicant;

- ☒ is prohibited or banned from participation in the licensing round or any bidding process by the Federal Government or any of its agencies;
- ☒ has previously presented false information or forged documents;
- ☒ presents more than one bid proposal for the same license or lease, either as individual pre-qualified bidder, as member of more than one consortium, or through a third-party company over which the pre-qualified bidder has control or belong, in whatever way, in a group which presents a separate bid proposal;
- ☒ has the same shareholders or are formed by the same persons as another company participating in the bid process for the same license or lease;
- ☒ has obtained information relating to the bid process through unauthorised means;
- ☒ has not complied with the provisions of the confidentiality agreement relating to access to the data room or any licence for geophysical data issued under these Regulations;
- ☒ directly or indirectly circumvents the bid process;
- ☒ fails to comply with the terms and conditions of any existing licence, lease or agreement with the Commission, Authority, or the Government in relation to petroleum operations in Nigeria;
- ☒ fails to comply with applicable laws;
- ☒ is indebted to Government;
- ☒ has an oil and gas asset not operated continuously and in a business-like manner; or
- ☒ has a promoter or shareholder who is indebted to Government



Submission and Opening of Bid Proposals

Bid proposals shall be submitted electronically on the website and the procedure shall be specified by the Commission on the Guidelines. However, where an applicant seeks to submit a proposal physically, the following must be noted;

- ▣ The bid shall be submitted physically, by a duly authorized representative of the bidder or by registered courier on or before the due date and time, at a place specified by the Commission.
- ▣ The bid shall consist of a bid proposal in a sealed envelope and bid guarantee in another sealed envelope.

It is worthy of note that a bid guarantee provided by a bidder other than the highest and reserve bidder shall be returned to such bidder.¹ However, In the case of the highest and reserve bidder, the bid guarantee shall remain in force until the license or lease is granted.

Bid Parameters and Determination of Winning Bidder

The bid winner shall be determined by a combination of bid parameters and a point system assessable by the bidders in such a way that the bidder with the highest aggregate amount of point shall be declared the winner. The bid parameters upon which the winning bidder shall be determined include;

- ▣ Signature bonus to be paid in full prior to the Licence or lease by or on behalf of the winning bidder.
- ▣ A royalty interest
- ▣ A profit split or profit oil split
- ▣ A work program commitment during the initial exploration period and
- ▣ Any other parameter as may be defined in the guideline.

Signature Bonus/Royalty

The Commission shall offer a Signature Bonus to be paid into the account of the Federation upon the grant of the petroleum prospecting licence or petroleum mining lease and the amount shall be quoted in US Dollars. Furthermore, Where the model licence or model lease

¹ Regulation 12 (6) of the Regulation



already establishes an amount for a signature bonus payable, the signature bonus shall be in addition to the signature bonus already prescribed in the model license or model lease.

Royalties shall be calculated on a field basis and payable into the Federation Account. The Commission may determine the minimum additional royalty acceptable under a bid proposal and maximum additional royalty under the bid proposal.

Where two or more bidders offer the same signature bonus/additional royalty, the bidders shall be invited on the day following the bid date to offer an increase in the signature bonus/additional royalty and the bidder offering the highest increase shall be the winning bidder.

Procedure prior and sequel to the granting of a licence or lease

Before the lease or license is granted, the winning bidder shall furnish the Commission with the offer letter issued to it, within 90 days from the date of issuance. The winning bidder shall also furnish the commission with;

- 🏠 the parent company guarantee;
- 🏠 the work commitment guarantee;
- 🏠 the applicable fee;
- 🏠 evidence of payment of the rent for the first year;
- 🏠 the payment of the signature bonus, where applicable;
- 🏠 the duly executed model contract; and
- 🏠 such other matters or payments as may be prescribed in the guidelines.

Where the winning bidder fulfils all the Commission shall make recommendation to the Minister to grant a petroleum prospecting license or petroleum mining lease to the winning bidder. The Minister shall communicate a decision to the Commission, nonetheless, where the Minister does not grant the licence or lease on the recommendation of the Commission, any guarantee provided shall be void and the payments provided shall be refunded to the winning bidder.



Regulation 23(2) provides that where the winning bidder is unable to fulfil the above conditions² within 90 days, the bid shall be declared unsuccessful and the Commission shall invite the reserve bidder to fulfil the conditions.

No award/Cancellation of Licensing Round

The Commission may declare that there is no winning bidder, where;

- ▣ no bid proposals have been presented;
- ▣ none of the interested parties qualifies; or
- ▣ all bid proposals have been rejected.

The Commission may cancel the licensing round for one, several or all blocks for any reason the Commission may determine and such reason shall be disclosed to the public. Upon cancellation of such licensing round, the commission shall refund any bid administration fees and return any bid guarantee not later than 90 days from the date of cancellation

Conclusion

The Regulation simplifies the Act and provides a non-complicated guide to the bidding process for the grant of petroleum prospecting licence and petroleum mining lease as stipulated by the Act.

² The conditions set out in paragraph 2.6.1 of this summary and Regulation 23 (1) of the Regulation