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PETROLEUM INDUSTRY ACT, NO. 6, 2021
PETROLEUM LICENSING ROUND REGULATIONS, 2022



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S. I. No. 72 of 2022

PETROLEUM INDUSTRY ACT, NO. 6, 2021
PETROLEUM LICENSING ROUND REGULATIONS, 2022

[18th Day of November, 2022]

Commence-
ment.

In exercise of the powers conferred on it by sections 10(f), 7(t) of the Petroleum Industry Act, No. 6, 2021 (“the Act”) and of all other powers enabling it in that behalf, the Nigerian Upstream Petroleum Regulatory Commission (“Commission”) makes the following Regulations —

PART I — OBJECTIVE AND APPLICATION

1. The objective of these Regulations is 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.

Objective.

2. These Regulations shall apply to bid rounds for the grant of petroleum prospecting licence and petroleum mining lease pursuant to the Act.

Application.

PART II—GENERAL ADMINISTRATION IN RELATION TO LICENSING ROUNDS

3. Except as provided under sections 71(5) and 74(3) of the Act, a petroleum prospecting licence or a petroleum mining lease shall only be granted to the winning bidder based on a bidding process which shall —

Grant of
licence or
lease to
winning
bidder.

(a) be fair, transparent and competitive ; and

(b) comply with the provisions of the Act, these Regulations and any other regulations or guidelines issued by the Commission.

4.—(1) Prior to the commencement of any bid exercise, the Commission shall establish and publish the licensing round plan on its Website.

Development
and
publication
of a licensing
round plan.

(2) The licensing round plan shall include —

(a) government policies in the long-term management of petroleum resources indicating the reserve targets, gas utilization objectives, indigenous participation, and development of carbon capture infrastructure ;

(b) a schedule of proposed activities and time frame ; and

(c) such other information as the Commission may prescribe.

(3) The strategic acreage allocation plan shall —

(a) be developed by the Commission, incorporating the objectives pursuant to section 6 of the Act ; and

(b) outline a framework for the implementation of the licensing round and the projected outcome.

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Licensing round.

5. The licensing round shall be fair, open, competitive, and based on criteria in conformity with the provisions of section 73(1) of the Act.

Publication of licensing round.

6. The Commission shall, before the commencement of a licensing round—

(a) 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 ;

(b) issue and publish licensing round guidelines on its Website ; and

(c) open a data room, which shall be accessible by bid participants.

Licensing round guidelines.

7. In addition to the provisions of section 75 of the Act, the licensing round guidelines shall contain—

(a) the anticipated calendar of events ;

(b) the procedure for engagement with bid participants and stakeholders ;

(c) the provisions relating to pre-qualification of participants ;

(d) the provisions relating to participation by consortia ;

(e) the nature of companies that cannot participate in the bidding process ;

(f) the procedure for submitting and opening bid proposals;

(g) the nature and amount of the work commitment guarantee by the participant ;

(h) the confidentiality agreement to be signed for access to the data room ;

(i) the procedure for modification of the licencing round guidelines ; and

(j) any other information that may be required by the Commission.

Calendar of events.

8.—(1) A licensing round shall terminate for a block, where the petroleum prospecting licence or petroleum mining lease has been granted for such block.

(2) The duration of a licensing round shall be sufficient for bid participants to evaluate all geological, geophysical, technical, economic and fiscal conditions relating to a block, but shall not be more than 365 calendar days.

Procedure for engagement with bid participants and stakeholders.

9.—(1) The licensing round guidelines shall provide for the engagement with participants and the general public throughout the licensing round process.

(2) The process of engagement shall be through notifications published by the Commission on its Website stating the place and date of such engagements.

(3) The Commission shall entertain questions and provide clarifications in such engagement sessions.

(4) The Commission shall publish the clarifications referred to in sub-regulation (1) of this regulation on its Website to provide further guidance to participants in the licensing round process.

10.—(1) An applicant shall satisfy the legal, financial and technical criteria to qualify for participation in the licensing round process.

(2) Where an applicant is a consortium —

(a) all members of the consortium shall satisfy the legal and financial requirement ; and

(b) at least one member of the consortium designated as the operator, shall satisfy the three categories of criteria specified in sub-regulation (1) of this regulation.

(3) An application for pre-qualification shall be accompanied by the payment of a fee as prescribed in the licensing round guidelines issued by the Commission.

(4) A company or consortium of companies shall not participate in a licensing round unless it has first been pre-qualified.

(5) The legal criteria required to pre-qualify shall include —

(a) incorporation of a company pursuant to the provisions of section 21 of the Companies and Allied Matters Act, No. 3, 2020 and submission of the relevant incorporation documents in compliance with section 70(2) of the Act ; and

(b) such other information as may be prescribed in the licensing round guidelines issued by the Commission.

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

(7) The technical criteria required to pre-qualify shall include the following —

(a) 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 ;

(b) 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

(c) such other information as may be prescribed in the licensing round guidelines issued by the Commission.

(8) Where the license or lease includes the obligation to drill one or more exploration wells, the interested party shall list the exploration wells drilled previously as an operator which shall as a minimum be the number established in the licensing round guidelines for a pre-qualified operator.

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(9) Where an applicant is a newly incorporated company in Nigeria, it may provide information of the parent company or parent companies as specified in sub-regulations (5),(6) and (7) of this regulation.

(10) The Commission shall reject a pre-qualification, where the —

(a) applicant does not comply with one or more of the pre-qualification criteria prescribed under this regulation ;

(b) Commission cannot verify an information provided by the applicant due to the fact that the information supplied is not verifiable ;

(c) applicant creates obstacles to or tries to influence the pre-qualification directly or through a third party, or

(d) applicant presents false, misleading or incomplete information.

11. The Commission may exclude a pre-qualified applicant from participation in the bid process, where the applicant —

(a) is prohibited or banned from participation in the licensing round or any bidding process by the Federal Government or any of its agencies ;

(b) has previously presented false information or forged documents ;

(c) 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 ;

(d) 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 ;

(e) has obtained information relating to the bid process through unauthorised means ;

(f) 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 ;

(g) directly or indirectly circumvents the bid process ;

(h) 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 ;

(i) fails to comply with applicable laws ;

(j) is indebted to Government ;

(k) has an oil and gas asset not operated continuously and in a business-like manner ; or

(l) has a promoter or shareholder who is indebted to Government.

Companies that cannot participate in a bidding process.

12.—(1) A bid process pursuant to these Regulations shall be —

- (a) conducted on a date and in a place and at a time determined by the Commission ; and
- (b) published on the Website of the Commission not later than thirty days before the bid date.

(2) Pursuant to section 74 (7) of the Act, all bids shall be submitted both physically and electronically.

(3) Where a bid is to be submitted physically, it shall be 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.

(4) The procedure for electronic submission of bids shall be as specified by the Commission in the licensing round guidelines.

(5) A bid shall consist of a bid proposal in a sealed envelope and bid guarantee in another sealed envelope.

(6) A bid guarantee provided by a bidder other than the highest and reserve bidder shall be returned to such bidder.

(7) In the case of the highest and reserve bidder, the bid guarantee shall remain in force until the license or lease is granted.

(8) The bid guarantee of the highest or reserve bidder, as the case may be, shall become effective for the Commission where —

(a) the bidder withdraws the bid proposal either as a winning bidder or reserve bidder ;

(b) the winning bidder or any of the members of the consortium of the winning bidder did not —

(i) sign a possible contract attached to the licence or lease pursuant to section 85 of the Act,

(ii) provide the related work commitment guarantee or the parent company guarantee, or

(iii) provide the required payments ;

(c) a reserve bidder or any of the members of the consortium of the reserve bidder did not —

(i) sign a possible contract attached to the licence or lease pursuant to section 85 of the Act,

(ii) provide the related work commitment guarantee or the parent company guarantee,

(iii) required payments ; or

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(d) the winning bidder or reserve bidder has provided false information during the bid process.

(9) A bidder who intends to bid for more than one license or lease, shall submit separate bid proposals for each license or lease.

(10) A bid shall be opened publicly at the same place and time as published prior to the commencement of the licensing round, in the presence of —

- (a) representatives of the bidders ;
- (b) representatives of the Federal Ministry of Finance ;
- (c) representatives of the Federal Ministry of Petroleum Resources ;
- (d) representatives of Nigerian Extractives Industries Transparency Initiative ; and
- (e) any interested member of the public.

(11) The representatives in sub-regulation (10) (b) to (d) of this regulation shall act as observers and also authenticate each qualifying bid.

(12) The winning bid shall be determined in accordance with section 74 (2) of the Act and it shall be the highest value bid pursuant to the parameters specified in the licensing round guidelines for the bid exercise.

(13) The Commission shall not open any bid of a company or consortia that include companies which the Commission has, prior to the bid opening, determined that they are ineligible to participate in the bid process pursuant to regulation 11 of these Regulations.

(14) The bid opening shall be a three-stage process as follows —

- (a) first stage which shall include —
 - (i) opening of envelopes containing the bid guarantee, and
 - (ii) determining the validity of the guarantee in accordance with these Regulations and the licensing round guidelines ;
- (b) second stage which shall include —
 - (i) opening of envelopes containing the bid proposal, and
 - (ii) recording and announcing the offer stated in the bid proposal ; and
- (c) third stage which shall include —
 - (i) announcing the bid with the highest value as the winning bid,
 - (ii) announcing the bid with the next highest value as the reserve, bidder, and
 - (iii) declaring that all other bids other than those specified in sub-paragraphs (i) and (ii) of this paragraph are unsuccessful.

(15) Upon the determination of the winning bid and the reserve bidder, the representatives in sub-regulation (10) (a) to (e) of this regulation shall issue a joint authenticating written statement confirming the winning bid.

(16) Where the bid does not include a bid guarantee or the guarantee is invalid, the bid stands disqualified ;

(17) The Commission shall publish the winning bidder and reserve bidder on its Website within the timeframe specified in the licensing round guidelines and issue an offer letter to the winning bidder within 14 working days.

(18) The Commission shall not be liable for costs incurred by any bidder related to the submission of the bid proposals and the conduct of the bid process.

13. The Commission may reject a bid proposal during the opening of proposals or subsequently —

Grounds for rejection of bids.

(a) where the —

(i) Commission determines the process under regulation 12 of these Regulations, that the companies should not have been permitted to participate in the bid process,

(ii) bidder did not commit to the minimum work programme or minimum level of investment or both,

(iii) bidder does not commit to the additional exploration well as required pursuant to regulation 21 of these Regulations,

(iv) bidder presents incomplete or illegible information,

(v) bid proposal is conditional on being granted, or not being granted another block or any other condition,

(vi) bid proposal is referential or related to other bid proposals that may be presented,

(vii) bid proposal includes corrections or changes,

(viii) bidder has presented false information during the licensing round,

(ix) bidder has not complied with the confidentiality agreement for access to the data room or the geophysical licence agreement pursuant to the licensing round guidelines,

(x) bidder has provided a bid guarantee that is not enforceable or where subsequent to the process under this regulation it is determined by the Commission that the bid guarantee is not in compliance with these regulations or licensing round guidelines,

(xi) bidder is or has been involved in any actions to influence the winning bid or bid process, and

(xii) bidder has incorrectly determined the number of points, for a bid made pursuant to section 74 (2) (b) of the Act ; or

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(b) on such other grounds as may be published in the licensing round guidelines or on the website of the Commission.

Confidentiality agreement for access to the data room.

14. Prior to accessing the data room, all bidders shall execute a confidentiality agreement.

Amendment of licensing round guidelines.

15.—(1) The Commission may amend the licensing round guidelines at any time not later than 30 days before the due date of submission of bid, and such amendment shall be updated on the website of the Commission.

(2) The bidder shall comply with amendment to the licensing round guidelines.

(3) Where an applicant is a qualified company or bidder, a subsequent change in qualification criteria shall not affect such qualification.

(4) A clarification provided by the Commission with respect to the licensing round guidelines during the clarification periods and published on the website shall be considered as an integral part of the licensing round guidelines.

(5) The Commission shall publish on its Website all versions of the licensing round guidelines.

Participation in the bid process.

16.—(1) An applicant who has been pre-qualified to participate in the bid, shall pay a bid administration fee as may be prescribed in the licensing round guidelines.

(2) A bidder may participate in the bidding process either as an individual company or as a consortium.

(3) In the case of a consortium, at least one member of the consortium shall be designated as the operator and the consortium shall in writing notify the Commission of the membership and working interest percentages of the members, with the member designated as operator having a minimum working interest of 20% in the consortium.

(4) A pre-qualified bidder shall not participate in more than one consortium bidding for the same license or lease.

(5) A pre-qualified bidder shall not bid on the same license or lease as an individual pre-qualified bidder and as a member of a consortium.

Application of the bid parameters.

17.—(1) Pursuant to section 74(2) of the Act, the application of the parameters for the determination of a winning bidder shall be as prescribed in regulations 16 to 20 of these Regulations.

(2) The bid parameter shall be any of the parameters specified in section 74(2) of the Act.

18.—(1) A signature bonus pursuant to section 74(2)(a)(i) of the Act shall be an amount offered upon the granting of the petroleum prospecting licence or petroleum mining lease and the amount shall be quoted in US Dollars.

Signature
bonus.

(2) The Commission may determine the minimum signature bonus to be paid into the Federation Account in line with section 258(2) of the Act.

(3) Where the model licence or model lease already establishes an amount for a signature bonus payable, the signature bonus pursuant to section 74(2) (a)(i) of the Act, and regulations 16 to 20 of these Regulations, shall be in addition to the signature bonus already prescribed in the model license or model lease.

(4) Where two or more bidders offer the same signature bonus, the bidders shall be invited on the day following the bid date to offer an increase in the signature bonus in sub-regulation (1) of this regulation and the bidder offering the highest increase shall be the winning bidder.

19.—(1) A royalty pursuant to section 74(2) (a) (ii) of the Act —

Royalty.

(a) shall be an additional royalty to the royalties contained in paragraph 10(2) of the Seventh Schedule to the Act and the additional royalty per centum shall apply to any volume of production ; and

(b) may be a royalty per centum with up to three decimals.

(2) The Commission may determine the —

(a) minimum additional royalty acceptable under a bid proposal ; and

(b) maximum additional royalty under the bid proposal.

(3) Where two or more bidders offer the same additional royalty, such bidders shall be invited on the day following the bid date to offer a signature bonus in addition to the additional royalty in sub- regulation (1) of this regulation and the bidder offering the highest signature bonus shall be the winning bidder.

20.—(1) A profit split or profit oil split pursuant to section 74(2)(a)(iii) of the Act shall be an additional percentage profit oil or profit oil split applicable to the entire sliding scale in the respective model contract and the additional profit split or profit oil split to Government may be a per centum with up to three decimals.

Profit split
or profit oil
split.

(2) The Commission may determine the —

(a) minimum additional per centum acceptable under a bid proposal ; and

(b) maximum additional per centum under the bid proposal, which may be expressed as a function of the sliding scale under the model contract.

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(3) Where two or more bidders offer the same additional per centum, such bidders shall be invited on the day following the bid date to offer a signature bonus in addition to the profit split or profit oil split in sub-regulation (1) of this regulation, and the bidder offering the highest signature bonus shall be the winning bidder.

Work programme commitment.

21.—(1) Work programme parameter pursuant to section 74(2)(a)(iv) of the Act shall be an additional exploration well commitment except in the case of frontier basin where it may be additional geophysical work pursuant to section 78(2) of the Act.

(2) The Commission may determine the minimum number of additional exploration well acceptable under a bid proposal, which may be zero, one or any number of additional exploration wells to be executed to a minimum depth specified in the licensing round guidelines, and in the case of blocks other than frontier acreages, it shall be in addition to the minimum exploration well commitment for the initial exploration period.

(3) Where two or more bidders offer the same quantum of work programme commitment, such bidders shall be invited on the day following the bid date to offer a signature bonus in addition to the additional exploration wells in sub-regulation (1) of this regulation and the bidder offering the highest signature bonus shall be the winning bidder.

(4) The additional work programme commitment shall be reflected in the work commitment guarantee.

(5) Any work commitment guarantee shall be for 100% of the value of the minimum work programme commitment and the additional work programme commitment, as provided for in the licensing round guidelines.

Combination of bid parameters.

22.—(1) Where a combination of bid parameters applies pursuant to section 74(2)(b) of the Act, the bid proposal shall contain the —

- (a) amounts for each of the parameters ; and
- (b) total points determined by the bidder pursuant to the methodology prescribed in the guidelines issued by the Commission.

(2) The Commission may determine the —

- (a) minimum points acceptable under a bid proposal ; and
- (b) maximum points under the bid proposal.

(3) Where two or more bidders offer the same points, such bidders shall be invited on the day following the bid date to offer a signature bonus in addition to the combination of bid parameters in sub-regulation (1) of this regulation and the bidder offering the highest bonus shall be the winning bidder.

23.—(1) The winning bidder shall, prior to the granting of the licence or lease, furnish the Commission with the offer letter issued pursuant to regulation 12(17) of these Regulations, within 90 days from the date of issue, including —

- (a) the parent company guarantee ;
- (b) the work commitment guarantee ;
- (c) the applicable fee ;
- (d) evidence of payment of the rent for the first year ;
- (e) the payment of the signature bonus, where applicable ;
- (f) the duly executed model contract pursuant to section 85(3) of the Act ; and
- (g) such other matters or payments as may be prescribed in the licensing round guidelines.

Procedure prior to the granting of a licence or lease.

(2) Where the winning bidder is unable to fulfill the conditions in sub-regulation (1) of this regulation within 90 days, the bid shall be declared unsuccessful and the Commission shall invite the reserve bidder to fulfill the conditions in sub-regulation (1) of this regulation with respect to the bid.

(3) Where the winning bidder fulfils all the conditions in sub-regulation (1) of this regulation, or where applicable pursuant to sub-regulation (2) of this regulation, the reserve bidder fulfills all these conditions, the Commission shall pursuant to section 73(3) of the Act, make recommendation to the Minister to grant a petroleum prospecting licence or petroleum mining lease to the winning bidder or reserve bidder, as the case may be.

(4) The Minister shall communicate a decision to the Commission in accordance with section 73(4) of the Act.

(5) 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 under sub-regulation (1)(c), (d) and (e) of this regulation shall be refunded to the winning bidder or reserve bidder as the case may be.

(6) The reserve bidder or any member of a consortium that was the reserve bidder that emerges as winner of the bid pursuant to sub regulation (2) of this regulation, shall not assign any of its interests in the licence or lease area to a company who was the winning bidder or was a member of a consortium of a winning bidder.

24. The Commission may grant a petroleum exploration licence to a qualified person with respect to the operations to be carried out under the licence on such terms and conditions as it may determine in accordance with the Act.

Grant of a petroleum exploration licence.

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No award or
cancellation
of licensing
round.

25.—(1) The Commission may declare that there is no winning bidder, where —

- (a) no bid proposals have been presented ;
- (b) none of the interested parties qualifies ; or
- (c) all bid proposals have been rejected.

(2) 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.

(3) In the case of sub-regulation (2) of this regulation, the Commission shall —

(a) refund any bid administration fees and return any bid guarantee not later than 90 days from the date of cancellation ; and

(b) not be responsible for any costs incurred by bidders or interested parties.

Post award.

26. The licensee or lessee shall, upon the award of the licence or lease, comply with the provisions of the Act, regulations or guidelines issued by the Commission and the terms and conditions stipulated in the licence or lease.

PART III—MISCELLANEOUS

Interpretation.

27. In these Regulations —

“*Act*” means Petroleum Industry Act, No. 6, 2021 ;

“*additional exploration wells*” are for areas other than frontier acreages exploration wells in addition to the minimum one exploration well requirement pursuant to section 78(2) of the Act for the initial exploration period and for frontier acreages the exploration wells that are required in addition to the geophysical programme ;

“*applicable law*” means the laws and regulations in Nigeria ;

“*bid administration fee*” means the fee to be paid by a qualified company to the Commission to be permitted to submit a bid for a block ;

“*bid guarantee*” means an amount stipulated in the licensing round guidelines, which shall guarantee the bid proposal until the highest and reserve bidder emerge ;

“*bid proposal*” means an application for a license or lease pursuant to the licensing round guidelines ;

“*bidder*” means a qualified person or a consortium of qualified persons, who have paid the bid administration fee ;

“*block*” means a licence area or lease area, as the case may be ;

“*consortium*” means a joint venture or association of individual companies ;

“*data room*” means an online repository containing the relevant data for review and an online virtual workstation containing seismic information ;

“*Dollar*” or “\$” or “US \$” or “*US Dollar*” means United States Dollar ;

“*JOA*” “*licensing round*” means the licensing round as contemplated under section 74(1) of the Act ;

“*licensing round guidelines*” shall be the licensing round guidelines as defined in section 75 of the Act ;

Contribution
to the
Fund.

“*minimum work programme*” means the minimum work programme specified pursuant to section 76(c) of the Act ;

“*operator*” means a company with the characteristics to be appointed as operator pursuant to the provisions of a JOA by the members of the JOA to manage and conduct the petroleum operations in a safe and efficient manner on behalf of the JOA ;

“*parent company guarantee*” is a bank guarantee which guarantees the general commitments and liabilities of a company issued by the parent company of such company ;

“*pre-qualification*” means the process whereby the Commission evaluates the technical, financial and legal qualifications of an interested party in accordance with these regulations and the licensing round guidelines, and such qualification can be for operator or non-operator ;

“*pre-qualified bidder*” means a qualified operator or qualified non-operator ;

“*royalty*” means a royalty or royalties in accordance with section 306 of the Act ;

“*well*” means a hole drilled into the earth for the purpose of locating, evaluating, producing or enhancing the production of petroleum or injection of any fluid into a subterranean reservoir ;

“*work commitment guarantee*” means a bank guarantee or letter of credit to guarantee the work to be undertaken as provided for under the lease or licence ; and

“*year*” means a period of a year from any day during the year.

28. These Regulations may be cited as the Petroleum Licensing Round Regulations, 2022. Citation.

MADE at Abuja this 18th day of November, 2022.

ENGR. GBENGA KOMOLAFE, FNSE
Commission Chief Executive
Nigerian Upstream Petroleum Regulatory Commission