

June 17, 2019

ANP releases the preliminary tender protocol and draft of PSC for the Transfer of Rights Surpluses Bid Round

On 13 June 2019, ANP released the [preliminary tender protocol](#) for the Transfer of Rights Surpluses bid round (“**ToR Surpluses Bid Round**”) and the [draft of production sharing contract](#) (“**PSC**”) to be signed by the winning bidders. See below our comments to such documents with special focus on relevant changes in relation to previous bid rounds.

Additional Technical Data Package

Besides the ordinary data package usually made available by ANP with selected public data, it will also be available to the bidders the so called “Additional Technical Data Package” composed by information of the areas on offer that were selected by Petrobras, including, among others, the following: (i) general information related to operational safety, environmental licensing, permits, communication sent to and received from ANP, as well as plans, programs and reports approved by the ANP (except the Development Plan); (ii) confidential information related to wells drilled in the area such as pressure, well logs, formation tests; (iii) unitization agreements (without the Development Plan); and (iv) description of the production facilities and subsea layout. In order to have access to the usual technical data package, it is only required to fulfill the enrolment requirements. To be entitled to the Additional Technical Data Package, the companies will also have to submit the documents required for the legal, technical and economic qualification.

Co-participation Agreement (“CPA”)

The preliminary tender protocol makes a general reference to the MME Resolution that will rule the CPA. The MME submitted a draft of such resolution for public hearing, but it has not enacted the definitive resolution yet (see our [newsletter](#) on the draft of the MME resolution). The preliminary tender protocol ratifies some provisions of the draft of MME Resolution such as: (i) the winning bidders (contractors to the PSC) and Petrobras (as the holder of ToR Contract) will have 18 months as from the execution of the PSC to negotiate and submit the CPA for ANP approval; (ii) PPSA will be an intervening consenting party to the CPA; (iii) the ToR Contract (including provisions regarding procurement) shall prevail until the CPA enters into effect; and (iv) the PSC holders may exercise the predetermination option so they can start to have access to production before the effective date of the CPA.

Unitization Agreement

Considering that Atapu, Sépia and Búzios contain reservoirs that straddles into open acreage and areas under existing concession contracts, the winning bidders will have to (i) execute, as part of the enrollment process in the bid round, a commitment term undertaking to adhere to the existing unitization agreements; and (ii) execute, together with the PSC, an amendment to the existing unitization agreement to formalize its adhesion to it. The templates of both documents are attached to the tender protocol.

Bid Date Procedure

The bid was structured as four different and independent auctions (one for each block), so the bidders have to prepare one envelope for each block and each auction will begin only after the winner of the previous auction is known. All bidders qualified to participate in the bid round (“**Qualified Bidder**”) will have to attend the auction and submit an envelope containing one of the following options: (i) its bid proposal (alone or in consortium); (ii) a statement that it does not want to present a bid for the respective block or (iii) a statement that its bid proposal will be submitted by the leader of its consortium (in case of a bid consortium). The Qualified Bidder may withdraw from participating in the bid round until 10 business days prior to the Bid Date. The Qualified Bidder that does timely exercise its withdrawal option must attend the auction and submit an envelope with one of the options above, otherwise it will be subject to a penalty of R\$500,000. This is different from previous bid rounds, when the bidders were not required to attend or submit any envelope on the bid date. In case a block does not receive any valid offer during the ordinary auction, ANP will, at the end of the last auction, provide a new opportunity for the Qualified Bidders to submit a proposal for such block.

PSC Provisions

The main changes to the PSC are related to the fact that there is no exploration phase (consequently, no minimum work commitment) and the PSC will have to coexist with the ToR Contract. For example, the draft of PSC provides and restates that (i) the PSC contractors shall execute a CPA and (ii) the Development Plan shall be submitted to the ANP together with the CPA. It also regulates new discoveries and respective appraisal activities and development plan.

Bid Round Schedule

See below some relevant milestones of the indicative schedule for the ToR Surpluses Bid Round:

Date	Event
13 June 2019	Publication of the preliminary tender protocol and the PSC draft
13 June 2019	Beginning of the enrolment period
3 July 2019	Deadline for submissions of adjustments to the preliminary tender protocol and PSC draft
6 September 2019	Publication of the final tender protocol and PSC
23 September 2019	Termination of the enrolment period
23 October 2019	Deadline for submission of bid bonds (<i>garantia de oferta</i>) Deadline for exercise of walk away option
6 November 2019	Bid Date
27 December 2019	Deadline for payment of the signature bonus
31 March 2019	Deadline for the execution of the PSC

Our Oil & Gas team remains available to provide any further clarification on this or any other matter.

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