

Alert | Energy & Natural Resources/Infrastructure



September 2017

CNH Issues Bidding Guidelines and Agreements for Pemex Farm-Out (Nobilis–Maximino Project)

On Sept. 15, 2017, the Commissioners of Mexico’s National Hydrocarbons Commission (CNH) held a meeting to discuss and approve an invitation to bid, the related Bidding Guidelines, and the exploration and production license model agreement (the “License Agreement”) for the selection of partner(s) for PEMEX Exploration and Production (PEP).

This is the second association of PEP through a farm-out agreement for exploring and producing hydrocarbons in the deep waters of the Gulf of Mexico, which will be carried out in the Nobilis–Maximino field. This new association will allow PEP to take advantage of the Mexican energy reform and improve its operating capabilities; share financial, technological and geological risks; and apply best industry practices in its activities.

The Nobilis–Maximino field is located within the Perdido area in the Gulf of Mexico, approximately 15 km (9.3 miles) from the border of the United States near the “Great White” field, and 230 km (143 miles) from the coast of Tamaulipas, Mexico. Nobilis–Maximino has a surface of 1,509 km² (583 miles²) and, according to the information provided by the CNH, the field lies at a depth of 2,500 to 3,600 meters (8,202 to 11,811 feet), and includes nine exploratory wells previously drilled by PEP. PEP has already conducted 3D seismic studies in 90 percent of the area.

Key Features Regarding the Bidding Process

The bidding process will include the following phases:

- Publication of the Bid Documents

The invitation to bid number CNH-A5-Nobilis-Maximino-C4/2017 for the international bid process number CNH-A5-Nobilis-Maximino/2017 was published on Sept. 18, 2017, in the Mexican Federal Official Gazette.

On the same date, the CNH published the Bidding Guidelines, the form of License Agreement, and the form of Joint Operating Agreement (JOA).

- Access to the Data Room

Access to the data room will be through the National System of Hydrocarbons Information. In order to obtain access to the data room, bidders are required to pay a fee of MXP\$3.7 million (approximately USD\$209,500.00) to obtain a license to access the information, be allowed to carry out visits, and have virtual access.

- Registration

In order to participate in the bid, interested parties are required to register with the CNH and pay a registration fee. The registration fee has not yet been announced.

- Q&A

Bidders may submit questions to and request clarifications from the CNH through a public Q&A process. This process will be divided in three phases. The first phase will address issues related to the payment to obtain access to the data room, the second phase will address issues related to the prequalification, and the third phase will address issues related to the submission and opening of proposals, award, License Agreement, and the JOA.

- Prequalification

The Bidding Guidelines provide actions for bidders to take to prequalify as operators or as non-operators. Requirements for information and capabilities (of the bidder) will depend on the character of the bidder (operator or non-operator). Operators or non-operators are required to be prequalified. Each bidder in a consortium must be prequalified. Once bidders are prequalified, they must obtain an authorization from the CNH to form the corresponding consortium and participate as bidders, indicating the designated operator, with the understanding that the selection of the members of the consortia will be carried out by the bidders.

In order to be prequalified, bidders must comply with similar legal, technical, and financial capabilities as in other bidding processes issued by the CNH. In addition, in this bidding process, PEP will issue its opinion regarding the bidders.

Pursuant to the Bidding Guidelines, among the technical capabilities to be complied with, operators will have to provide evidence of their participation in at least one ultra-deep water project (depth equal to or greater than 1,500 meters in the last 10 years) and a total annual average production of at least 50,000 BOE/D in any year within the 2012-2016 period in deep or ultra-deep water projects. In addition, operators must provide evidence of experience in the implementation and operation of Health, Safety, and Environmental (HSE) systems during the last five years and submit certifications such as OHSAS 18001 and ISO 14001.

Regarding financial capabilities, operators must provide evidence of a net worth of USD\$5 billion, or assets with a value of USD\$25 billion and a credit rating with an investment grade (Fitch Ratings, Moody's Investors Service, Standard & Poor's Rating Services, or HR Ratings). In addition, operators must provide evidence of investments in exploration and production projects of at least USD\$2 billion in the aggregate.

For non-operators, it will be required to provide evidence of a net worth of USD\$250 million.

According to the Bidding Guidelines, the following participating interests will be applicable to the project: **(i)** For consortia (a) PEP – 49 percent, (b) Operator 1 – at least 30 percent, (c) Operator 2 / Non-Operator – the rest of the participating interest; and **(ii)** for individual bidders (a) PEP – 49 percent, and (b) Operator – 51%.

Bidders who have previously been prequalified with respect to financial and technical capabilities in other tenders issued by the CNH in connection with exploration and production activities may state under oath that there have been no changes in the documents submitted in the reference tender instead of again submitting the same information.

- Carried Interest

Pursuant to the Bid Guidelines and JOA, the winning bidder must cover a carried interest in favor of PEP in the amount of USD\$815 million.

- Opening of Proposals and Award

All bidders are required to provide a bid guarantee in the amount of USD\$3 million through a letter of credit.

The Ministry of Public Finance will determine the minimum and maximum additional royalty amounts applicable to this process.

The successful bidder will be selected based on the bid that offers the highest rate of additional royalty payable to the State. If there is a tie between two or more bidders, the successful bidder will be selected based on the bid that offers the highest signing bonus for the State and additional carry for PEP.

- Execution of the License Agreement

Once the CNH has selected the successful bidder, CNH and the bidder will enter into the License Agreement. The License Agreement will include, among others, the following terms and conditions:

- 35 year term with two potential extensions, the first one for ten additional years and the second for five additional years;
- Exploration Period – Four years with two optional additional periods of three years each;
- Evaluation Period – Three years;
- Development Period;
- Surrender of the Area;
- Unitization;
- Disposition of Production;

- Compensation;
- Guarantees – Performance Guarantees and a Corporate Guarantee through a parent company or an affiliate;
- Abandonment and Decommissioning;
- Insurance;
- Contractual and Administrative Rescission;
- Assignment and Change in Control; and
- Applicable Law (Mexican Law) and Dispute Resolution (UNCITRAL Arbitration seated in The Hague, Netherlands).

Before the execution of the License Agreement, the successful bidder and PEP will enter into a JOA. The form of JOA issued by the CNH is based on the Association of International Petroleum Negotiators (AIPN) JOA model. The JOA with PEP includes, among others, the following terms and conditions:

- Participating interests in terms of the License Agreement;
- Designation of the Operator;
- Operator's obligations and liabilities;
- Operating Committee;
- Work Programs and Budgets;
- Sole Risk Operations;
- Default;
- Disposition of production;
- Abandonment and Decommissioning;
- Transfers and Change in Control;
- Withdrawal;
- Dispute Resolution (arbitration in Calgary, Canada / ICC Rules); and
- Tax payments.

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