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Newsletter



Expert Legal Assistance

Presidential Decree no. 86/18 of 2 April 2018

Modifications to the rules governing public tenders for awarding of oil blocks and procurement of supplies and services by oil operators.

Modifications to the rules governing public tenders for awarding of oil blocks and procurement of supplies and services by oil operators.

Presidential Decree no.º 86/18 of 2 April 2018 (Decree noº 48/06 of 1 September 2006) has establish new rules and procedures applicable to public tenders for:

- a) Selection of national concessionaire associates; and
- b) Procurement of goods and services for petroleum operations.

The hiring procedure regarding the procurement of goods and services for petroleum operations still varies, depending on the value of the contract to be awarded, but the relevant contractual thresholds have now been increased.

Oil operators will now only be required to launch public tenders for contracts of over \$ 1 million or the equivalent amount in Kwanzas.

Also, as a rule, only the awarding of contracts of over \$ 5 millions, or the Kwanza equivalent, will still be subject to authorization from the national concessionaire.

The most significant changes by Presidential Decree no.º 86/18 of 2 April 2018 are:

Regarding public tenders for awarding of oil blocks

- The "pre-qualification" phase has been eliminated. Bidders are no longer required to "pre-qualify" to respond to a call for tenders by the national concessionaire;
- Several time periods were extended or reduced (including for submitting bids, for bid evaluation, award decision, lodging appeals).
- It is mandatory for bidders to present their credentials as regards Health, Safety & Environment;

Regarding procurement of supplies and services by oil operators

- Operators may award contracts for up to \$ 1 million without public tender or approval the national concessionaire (previous was \$ 250.000,00);

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- Contracts between \$ 1 million and USD 5 millions are subject to public tender but do not need pre approval by the national concessionaire;
- Contracts in excess of \$ 5 millions are subject to both public tender and national concessionaire prior approval (previous was \$ 750.000,00);
- Direct award (without public tender) is always permitted in the following cases:
 - a) In case of an operational emergency; and
 - b) In case the supply/service can only be sourced from one specific supplier;
- Bids must be opened in the national concessionaire premises;
- Bids must be submitted in Portuguese. If presented in a foreign language, a Portuguese translation must be provided;
- Several time periods were extended or reduced (including for bid evaluation, national concessionaire approval, etc);
- The national concessionaire must expressly decide on the award recommendation made by the operator (for contracts over \$ 5 millions). The operator recommendation is deemed tacitly accepted if no express response is forthcoming.

According to article 17º of Presidential Decree N.º 86/18 of 2 April 2018, ongoing public tenders will not be affected by the new regulation.

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