C/2024/5457

10.9.2024

COMMUNICATION FROM THE HUNGARIAN MINISTRY OF ENERGY PURSUANT TO ARTICLE 3(2) OF DIRECTIVE 94/22/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 30 MAY 1994 ON THE CONDITIONS FOR GRANTING AND USING AUTHORISATIONS FOR THE PROSPECTION, EXPLORATION AND PRODUCTION OF HYDROCARBONS

Public invitation to tender for a concession for the prospection, exploration and production of hydrocarbons under concession in the Buzsák area

(C/2024/5457)

On behalf of the Hungarian State, the Minister for energy ('the Contracting Authority' or 'the Minister'), as the minister responsible for mining, hereby issues a public invitation to tender for the prospection, exploration and production of hydrocarbons under a concession contract on the basis of Act CXCVI of 2011 on national assets ('the National Assets Act'), Act XVI of 1991 on concessions ('the Concessions Act'), Act XLVIII of 1993 on mining ('the Mining Act'), Government Decree No 727/2020 of 31 December 2020 laying down certain rules governing concession procedures under Act XVI of 1991 on concessions, and Government Decree No 446/2022 of 7 November 2022 on the performance of the tasks of the competent sectoral minister for certain activities subject to concession, subject to the following conditions.

1. The Minister will publish the invitation to tender, adjudge the bids and conclude the concession contract in accordance with the Concessions Act and the Mining Act and the regulations implementing them. Bids that meet the tender specifications will be evaluated by an Evaluation Committee set up by the Minister.

On the recommendation of the Evaluation Committee, the Minister ([1]) will – with the prior agreement of the Hungarian Supervisory Authority for Regulated Activities ('SZTFH') – issue the decision awarding the concession in accordance with Section 5(1)-(1a) of the Concessions Act, on the basis of which the Minister may then conclude the concession contract with the successful bidder.

2. The language of the tendering procedure is Hungarian.

3. Participation in the tendering procedure is open to any Hungarian or foreign natural person with capacity to act and to any transparent organisation within the meaning of the National Assets Act, provided they meet the tender specifications; joint bids are also permitted. In the case of joint bids for this concession activity, the bidders must designate one of their number as representative, but assume joint and several liability for performance of the concession contract. Under the tendering procedure, domestic and foreign bidders will be treated on an equal footing.

For the purpose of carrying out the activity subject to concession, using its own resources the bidder signing the concession contract ('the Concession-Holder') must, within 90 days of the concession contract entering into force, set up a company with its registered office in Hungary ('the Concession Company'); the Concession-Holder must hold the majority of the shares, business interests and voting rights in the company at the time it is set up and for as long as it is operating, and must, as owner, undertake to enforce the requirements specified in the concession contract within the Concession Company. The Concession Company will enjoy the rights and be subject to the obligations under the concession contract as a mining operator.

([1]) As regards the individual activities subject to concession, the Minister for energy is authorised to act as the legal representative of the Hungarian State as grantor, on the basis of Section 5(1) of the Concessions Act, Section 8 of the Mining Act, Section 160(1) of Government Decree No 182/2022 of 24 May 2022 on the duties and powers of members of the Government, Section 1 and Annex 1 of Government Decree No 446/2022 of 7 November 2022 on the performance of the tasks of the competent sectoral minister, Section 3(1) of Government Decree No 727/2020 of 31 December 2020 laying down certain rules governing concession procedures under Act XVI of 1991 on concessions, and Decision No 335/2022 of the President of the Republic of 30 November 2022 appointing the Minister.

4. The duration of the concession is 20 years from the entry into force of the concession contract, which may be extended once without a further call for tenders for a maximum of half of its original duration if the Concession-Holder and Concession Company have complied with all their obligations in accordance with the contract and on time.

5. Data on area designated for concession:

The area designated for concession concerns the administrative territories of the municipalities listed in the table below in the counties of Somogy, Veszprém and Zala.

Municipality	County	Municipality	County
Alsórajk	Zala	Nagybakónak	Zala
Badacsonytomaj	Veszprém	Nagyrada	Zala
Balatonberény	Somogy	Nikla	Somogy
Balatonboglár	Somogy	Ordacsehi	Somogy
Balatonfenyves	Somogy	Orosztony	Zala
Balatonkeresztúr	Somogy	Öreglak	Somogy
Balatonmagyaród	Zala	Pacsa	Zala
Balatonmáriafürdő	Somogy	Pusztakovácsi	Somogy
Balatonszentgyörgy	Somogy	Sármellék	Zala
Balatonújlak	Somogy	Sávoly	Somogy
Buzsák	Somogy	Somogysámson	Somogy
Csömend	Somogy	Somogyszentpál	Somogy
Dióskál	Zala	Somogyvár	Somogy
Egeraracsa	Zala	Somogyzsitfa	Somogy
Esztergályhorváti	Zala	Szegerdő	Somogy
Felsőrajk	Zala	Szőkedencs	Somogy
Fonyód	Somogy	Táska	Somogy
Főnyed	Somogy	Tikos	Somogy
Garabonc	Zala	Újudvar	Zala
Gelse	Zala	Vörs	Somogy
Gelsesziget	Zala	Zalaapáti	Zala
Hollád	Somogy	Zalakaros	Zala
Kacorlak	Zala	Zalakomár	Zala
Kerecseny	Zala	Zalamerenye	Zala
Keszthely	Zala	Zalaszabar	Zala
Kéthely	Somogy	Zalaszentmárton	Zala
Kilimán	Zala	Zalaszentmihály	Zala
Lengyeltóti	Somogy	Zalaújlak	Zala
Marcali	Somogy	Zalavár	Zala

Overburden of area designated for concession: surface and bedrock: 6 000 metres below Baltic Sea level

Areas cleared to make way for a mine site established for hydrocarbon mineral resources are not included in the area designated for concession.

The corner point coordinates delimiting the area designated for concession can be viewed in the Uniform National Projection ('EOV') System, while data on the areas cleared to make way for mine sites established for hydrocarbon mineral resources, which are not included in the area designated for concession, can be viewed on the websites of the Hungarian Supervisory Authority for Regulated Activities (https://sztfh.hu) and the Ministry of Energy (https://kormany.hu/energiaugyi-miniszterium) by clicking on 'Koncesszió'.

Size of area designated for concession: 820,73 km^2.

6. The minimum net concession fee is HUF 508 000 000 (five hundred and eight million forint) plus VAT, but a bid for a larger fixed amount may be entered in the tendering procedure. Once the result is published, the successful bidder must pay the concession fee in the amount, in the manner and by the date specified in the concession contract.

7. Participation in the concession tendering procedure is subject to payment of a participation fee of HUF 20 000 000 (twenty million forint) plus VAT, which is to be paid in the manner specified in the Tender Document. The participation fee must arrive on the account set out in the Tender Document by 24:00 on the day preceding the deadline for submitting bids.

8. In addition to paying the participation fee, for their bid to be valid bidders must pay a tendering security of HUF 100 000 000 (one hundred million forint) by 24:00 on the day preceding the deadline for submitting bids as a guarantee that the bid is binding. The tendering security paid will be forfeited to the Contracting Authority if the bidder withdraws or if the bidder is successful but then fails to conclude the contract or fails to pay the concession fee offered, in the amount, in the manner and by the deadline stipulated in the contract. The tendering security is to be paid in the manner specified in the Tender Document.

9. The lowest rate of the mining royalty payable for conventional hydrocarbon production on the basis of the concession contract will be 20 % in accordance with the decision of the Minister. A bid may be entered in the tendering procedure offering to pay a mining royalty larger than the minimum mining royalty, on the proviso that the resulting royalty must be recorded in the concession contract and paid for the duration of the concession. In the cases specified in Section 20(3)(e) and (i) and Section 20(5) of the Mining Act, the contractual mining royalty will be the mining royalty rate specified in the Mining Act applicable on the date the bid is submitted.

10. The legal, financial, technical and other conditions and information relating to the tendering procedure can be found in the Tender Document.

11. The Tender Document may be collected at the headquarters of the Ministry of Energy (Október huszonharmadika utca 18, 1117 Budapest), third floor, office 333, on working days between 09:00 and 15:00 up until the day before the submission deadline, on presentation of adequate documentary proof that the purchase price for the Tender Document has been paid. The Ministry of Energy will issue the purchaser with a certificate in their name.

When purchasing the Tender Document, for the purposes of being contacted and receiving communications, the purchaser must also submit a Concession Bidder Identification Sheet, which can be downloaded from the website of the Ministry of Energy (https://kormany.hu/energiaugyi-miniszterium) by clicking on 'Koncesszió'.

12. The purchase price for the Tender Document is HUF 200 000 (two hundred thousand forint) plus VAT, which must be paid by transfer into the Ministry of Energy's appropriation utilisation framework account No 10032000-00290713-00000000 (IBAN: HU30 1003 2000 0029 0713 0000 0000, SWIFT code: HUSTHUHB, financial institution where the account is held: Hungarian State Treasury). The message accompanying the transfer must state the code BUCHDV and the name of the party purchasing the Tender Document. The purchase price for the Tender Document may not be paid in cash and is not refundable in part or in full. If the Tender Document is not received, the purchase price for the Tender Document will be refunded to the payer within five days of the submission deadline.

13. Bids may be submitted only by persons having purchased the Tender Document and having verifiably paid both the participation fee and the tendering security. If a joint bid is submitted, it is sufficient for one of the bidders to purchase the Tender Document.

14. Bids must be submitted in person between 10:00 and 12:00 on 15 January 2025 at the headquarters of the Ministry of Energy (Október huszonharmadika utca 18, 1117 Budapest), third floor, office 333, in Hungarian, as specified in the Tender Document.

15. The bid becomes binding on the bidder from the time it is submitted and remains binding until the tendering procedure has ended. Bidders may not exclude liability for failure to abide by their bid.

16. The Minister reserves the right to withdraw the invitation to tender without providing justification at any point up until the deadline for bids to be submitted.

17. The Minister reserves the right to declare the tender procedure unsuccessful without providing justification at any point up until the concession contract is concluded following the deadline for bids to be submitted, and to discontinue the procedure. No claims arising from the tender procedure being declared unsuccessful may be lodged against the Minister, the Hungarian State represented by the Minister, or the Ministry of Energy as the Minister's place of work.

18. If the Minister withdraws the invitation to tender or declares the tender procedure unsuccessful, they will refund the participation fee paid by the bidder within 15 days of the discontinuation of the procedure.

19. The successful bidder will acquire the exclusive right for the prospection, exploration and production of hydrocarbons in the area designated for concession for the duration of the concession through the Concession Company mandatorily set up for that purpose. Once the decision establishing the mining site becomes final, the concession right for the prospection area will be restricted to the area of the mining site.

20. Each bidder may submit only a single bid.

21. Time limit for the adjudication of concession bids: within 90 days following the deadline for bids to be submitted.

22. The Contracting Authority will ensure a level playing field and will not apply any preferential criteria.

23. Tender adjudication criteria:

(I) Assessment criteria relating to the content of the Programme of Research Work subject to concession:

— professional merits of the Programme of Research Work (programme design aiming for maximum prospection of hydrocarbon);

— the planned duration of the research;

— the measures envisaged for protecting the environment and preventing and reducing damage in the course of the work subject to concession;

— how soon commencement of production is envisaged (by law, within less than five years).

(II) Assessment criteria relating to the bidder's technical and financial capacity:

— the bidder's financial standing, the availability of the resources needed to finance the work to be performed under the concession, and the proportion of this accounted for by own resources;

— the total value of work performed in connection with hydrocarbon mining in the three years preceding the invitation to tender.

(III) Assessment criteria relating to payment obligations undertaken in the concession contract:

— the net concession fee offered in comparison to the minimum concession fee set by the Minister;

— the mining royalty rate supplement offered in comparison to the minimum mining royalty rate set by the Minister.

The detailed adjudication criteria and the legislation governing the procedure for authorising the concession work and how it is to be performed and completed are specified in the Tender Document.

24. The concession contract

The concession contract is to be concluded within 90 days following the announcement of the result. This time limit may be extended by the Minister once only by a maximum of 60 days.

The successful bidder is entitled to carry out the exclusive state-controlled economic activity (prospection, exploration and production of hydrocarbons in a delimited area) permitted under the concession for the duration of the concession in accordance with the relevant legislation and the concession contract.

When submitting the bid, bidders must take account of Section 22/A(13) of the Mining Act, which states that in the case of hydrocarbons a mining operator's prospection right or prospection permit may cover a total of no more than 20 000 km^2 of prospection territory. When establishing the prospection territory, account must also be taken of the prospection territory of the mining operator that controls – within the meaning of Act V of 2013 on the Civil Code – the mining operator wishing to obtain the prospection right. In the case of joint bids, each of the bidders must meet this criterion individually.

The draft concession contract is annexed to the Tender Document.

25. Information regarding the tendering procedure may be requested exclusively in Hungarian, in writing after the Tender Document has been purchased, in the manner stipulated in the Tender Document. Replies will be made available to all parties by the Ministry of Energy using the e-mail address indicated on the Bidder Identification Sheet submitted when the Tender Document was purchased.

Budapest, 27 June 2024.

Lajos Csaba LANTOS
Minister