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PERMANENT OFFER FOR AWARD OF E&P RIGHTS



Introduction

Since the enactment of Law No. 9,478/1977 (Petroleum Law), Brazil has had an extensive and successful trajectory with 21 bidding rounds for the award of exploration and production (E&P) rights under the concession regime¹ and eight bidding rounds under the production-sharing regime.² This solid path has led to Brazil being ranked as the eighth crude oil and condensate producer in the world³ and having over 370 fields under development or production⁴.

Despite having already consolidated a consistent systematic bidding round process, Brazil found room to innovate and is now

committed to implement the Permanent Offer system for the award of E&P rights under the concession regime, for any onshore and offshore blocks, as well as relinquished fields or those in the process of being relinquished. Pre-salt blocks may also be included in the Permanent Offer upon a specific authorization. The differentiating factor of the Permanent Offer is the decentralization of investment from a specific bidding round to an ongoing and dynamic process with opportunities available at any time.

¹ 17 bidding rounds for blocks with exploratory risks and four bidding rounds for areas with marginal accumulations.

² Six bidding rounds for blocks with exploratory risks in pre-salt areas and two bidding rounds for the Transfer of Rights Surplus Volume.

³ BP Statistical Review 2021.

⁴ The O&G Industry in Brazil: An overview and opportunities for Japanese Investors in the E&P and gas market



Overview

The Permanent Offer was developed in the context of several regulatory innovations implemented between 2015 and 2018 by the Brazilian government in view of the needs of the national petroleum industry, to encourage the nomination of areas by industry players, expanding geological and geophysical studies in Brazilian sedimentary basins.

With these objectives in mind, the National Energy Policy Council – CNPE issued Resolution No. 17/2017, establishing the guidelines for the Permanent Offer to be conducted under the concession regime and authorizing the National Agency of Petroleum, Natural Gas and Biofuels – ANP to offer non-awarded or relinquished areas (the exception being fields or blocks in the Pre-salt and other strategic areas).

The Permanent Offer system is composed of on-demand bidding rounds, the so-called “Cycles.” Each Cycle encompasses a public session for presentation of offers only for the sectors that have had an expression of interest accompanied by a bid bond. Only bidders that undergo the registration process may submit an expression of interest for ANP's analysis.

One individual registration with the payment of a single participation fee allows the interested companies to participate in all Cycles of the Permanent Offer. The payment of the participation fee also grants access to a sample of data from the sectors of the Permanent Offer.

Bidders may register and present expression of interest/bid bonds at any time. To participate in the presentation of offers of the current Permanent Offer Cycle, a bidder must observe the deadlines disclosed by ANP relating to such Cycle.



What's new?

After two bidding round cycles with the participation of 22 different bidders, 55 blocks with exploratory risk and 13 areas with marginal accumulations have been awarded under the concession regime in the Permanent Offer system, amounting to a total signature bonus of BRL 79,003,482.52. Almost 80 companies are already registered in the Permanent Offer.

After such positive results, at the end of 2021, CNPE published its Resolution No. 27/2021, which selected the Permanent Offer system as preferential for the offer of petroleum, natural gas and other fluid hydrocarbons E&P areas.

CNPE also authorized ANP to appoint and include in the Permanent Offer, under the concession regime, any onshore and offshore blocks, in addition to the non-awarded and relinquished fields (or those in the process of being relinquished).

Resolution No. 27/2021 revoked the multiyear bidding round calendar and, as a result, the blocks that would be offered in the 18th bidding round under the concession regime, scheduled to take place in 2022, will now be included in the Permanent Offer.

Fields and blocks included in the pre-salt area or in strategic areas are not covered by the authorization granted to ANP by CNPE. Such fields and blocks may be exceptionally included in the Permanent Offer by means of a specific determination of CNPE, which would define the parameters applicable to each field or block.

Observing the provisions of Resolution No. 27/2021, CNPE published, on January 5, 2022, Resolution No. 26/2021, authorizing ANP to include 11 blocks under the production-sharing regime in the Permanent Offer, as well as approving the respective technical and economic parameters.



Among the 11 approved blocks are Ágata, Água Marinha, Esmeralda, Jade, Turmalina and Tupinambá, which were originally scheduled to be offered in the 7th and 8th Pre-salt bidding rounds. Petrobras exercised its preferential right to be the operator in Água Marinha and Norte de Brava, with a minimum participating interest of 30 percent.

For these two areas, pursuant to Decree No. 9.041/2017, Petrobras will have the “withdrawal option” to refuse to enter into a production sharing agreement if the Federal Government’s profit oil percentage offered by the winning bidder or consortium is higher than the minimum percentage established in the tender protocol.

Petrobras can participate on equal terms and conditions with the other bidders in relation to the remaining nine offered areas, which are: Esmeralda, Ágata, Bumerangue, Cruzeiro do Sul, Sudoeste de Sagitário, Itaimbezinho, Turmalina, Jade and Tupinambá.

The ANP Board of Directors approved, on February 16, 2022, the draft tender protocol and production sharing agreement to offer the 11 pre-salt blocks in the Permanent Offer under the production sharing regime. The tender documents were also approved by the Ministry of Mines and Energy and made available in ANP's official website on February 22, 2022. Both the draft tender protocol and the production sharing agreement will be under public consultation until March 21, 2022.

BELOW YOU WILL FIND A TABLE WITH KEY INFORMATION PROVIDED IN THE DRAFT TENDER PROTOCOL RELATED TO THE 11 PRE-SALT BLOCKS:

Block	Bid Bond ³ (BRL)	Signatur Bonus (BRL)	Minimum Exploratory Program – PEM	PEM Guarante (BRL)	Exploration Phase (years) ⁷	Minimum Profit Oil percentage (%)	Possible Unitization?
Ágata	700,000.00	61,813,000.00	1 exploratory well	108,000,000.00	7	12.58	No
Água Marinha	700,000.00	65,443,000.00	1 exploratory well	108,000,000.00	7	13.23	No
Bumerangue	100,000.00	8,861,000.00	1 exploratory well	108,000,000.00	7	5.66	No
Cruzeiro do Sul	1,400,000.00	134,035,000.00	1 exploratory well	108,000,000.00	7	14.13	No
Esmeralda	400,000.00	33,736,000.00	1 exploratory well	108,000,000.00	7	10.54	No
Itaimbezinho	200,000.00	15,641,000.00	1 exploratory well	108,000,000.00	7	11.67	No
Jade	1,100,000.00	104,730,000.00	1 exploratory well	108,000,000.00	7	10.98	No
Norte de Brava	5,200,000.00	511,692,000.00	1 exploratory well	108,000,000.00	7	22.71	Yes
Sudoeste de Sagitário	3,400,000.00	330,256,000.00	1 exploratory well	108,000,000.00	7	21.3	Yes
Tupinambá	100,000.00	7,047,000.00	1 exploratory well	108,000,000.00	7	4.88	No
Turmalina	100,000.00	9,822,000.00	1 exploratory well	108,000,000.00	7	6.87	No

³<https://www.gov.br/anp/pt-br/rodadas-anp/oferta-permanente/opp/arquivos/edital/oficio-28-2022-spg-mme.pdf>

⁴<https://www.gov.br/anp/pt-br/rodadas-anp/oferta-permanente/opp/edital>

⁷Pursuant to the draft tender protocol, the contractor will be required to carry out the activities of the minimum exploratory program during this period. The exploration phase may be extended in accordance with the provisions of the production sharing agreement.

Legal Framework

Law No. **9.478/1997**: Commonly referred to as Petroleum Law. Provides for the national energy policy, for activities related to the petroleum monopoly, creates CNPE and ANP, among other provisions.

Law No. **12.351/2010**: Commonly referred to as Pre-salt Law. Provides for the exploration and production of oil, natural gas and other fluid hydrocarbons under the production sharing regime.

ANP Resolution No. **18/2015**: Regulates the bidding procedure for blocks under the concession regime.

CNPE Resolution No. **17/2017**: Establishes the Oil and Natural Gas Exploration and Production Policy, provides guidelines for planning and holding bid rounds, among other topics.







CNPE Resolution No. **8/2018**: Authorizes ANP to include the areas offered in bid rounds Zero to Six in the Permanent Offer system under the concession regime.

Decree No. **9.641/2018**: Authorizes ANP to define onshore blocks to be included in the Permanent Offer under the concession regime.

CNPE Resolution No. **27/2021**: Amends CNPE Resolution No. 17/2017 to authorize ANP to define and include any onshore and offshore blocks in the Permanent Offer under the concession regime, except for Pre-salt blocks and strategic areas.

CNPE Resolution No. **26/2021**: Authorizes the offer of 11 Pre-salt blocks in the Permanent Offer system, under the production sharing regime.

Previous Publications

-  Brazil: ANP Initiates 2nd Cycle of the Permanent Offer
-  ANP Approves Permanent Offer of Areas
-  Brazil O&G Permanent Offer – Tender Protocol and Concession Contracts
-  Brazil O&G Permanent Offer – Drafts of Tender Protocol and Concession Agreements Released
-  Permanent Offer – Petrobras Exercises Its Preferential Right in Two Areas
-  Permanent Offer: CNPE Publishes Resolutions Changing Bidding Rounds System

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