

NEW RULES IN THE OIL SECTOR: TENDERS FOR ASSOCIATES OF THE NATIONAL CONCESSIONAIRE AND THE PROCUREMENT OF GOODS AND SERVICES

NEWSLETTER
ANGOLA
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Presidential Decree 86/2018 was published on 2 April 2018 and entered into force on the same date, which establishes the new Rules and Procedures for Tenders for Associates of the National Concessionaire and for the Procurement of Goods and Services in the Oil Sector. It also revoked Decree 48/86 of 1 September.

Presidential Decree 86/2018 very much like its predecessor establishes the procedure for an oil company to become an Associate of the National Concessionaire and then sets out the procurement rules for goods and services in the oil sector.

ASSOCIATE OF THE NATIONAL CONCESSIONAIRE

The objective set out in the introduction of the decree is to simplify the process for an oil company to become an Associate of the National Concessionaire to perform oil operations. The process still involves a public tender.

While the law establishes a longer notice period for publication of the notice of public tender, which must be of at least 120 days (previously it was 60 days), the government has streamlined the next stages of the tender process and the negotiation of the contract, with the aim of facilitating a quicker completion of each stage of the process.

ACQUISITION OF GOODS AND SERVICES

In this area, there are a number of news, also aimed at speeding up the procurement process of goods and services in the oil sector, by establishing new thresholds and rules for the tenders. We foresee that these new rules will have a significant impact in the sector.

For contracts of up to USD 1,000,000 (or local equivalent), the operator is free to hire services and acquire goods and does not need the consent of the National Concessionaire or to carry out a public tender. There is an obligation to inform the National Concessionaire on a quarterly basis of all contracts entered into by the operator. Previously, this threshold was USD 250,000.

For contracts between USD 1,000,000 and USD 5,000,000 (or local equivalent) with a duration of under 5 years, the operator must issue a public tender but may award the contracts freely without the consent of the National Concessionaire. There is also an obligation to inform the National Concessionaire on a quarterly basis of all contracts entered into by the operator. Previously, the thresholds were USD 250,000 and USD 750,000.

For contracts over USD 5,000,000 (or local equivalent), the same rules that previously applied to contracts over USD 750,000 apply. Procurement must be made by public tender and the National Concessionaire must approve the list of bidders in advance, as well as the award of the contract. The

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operator will have 12 weeks to assess the bids, submit its assessment and recommendation to the National Concessionaire (longer than the former 6 weeks) and the decision of the National Concessionaire must be given within 60 days on whether it approves or rejects the operator's recommendation. Failure to do so will be deemed as a tacit approval.

Finally, we would also highlight that the new rules establish that a public tender is not required, irrespective of the value of the contracts, (i) when the procurement of goods and services is for an emergency in the oil operations that requires immediate action by the operator or (ii) when there is a single supplier in the market for the goods or services.

CONTACTS



João Robles
Partner
jmr@fcblegal.com