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| Stakeholder consultation on draft of economic Terms and Conditions (T&C) of the 2023 Innovation Fund pilot auction for renewable hydrogen production  Feedback table |

Instructions

Thank you for taking the time to provide written feedback on **draft of** **economic Terms and Conditions (T&C) of the 2023 Innovation Fund pilot auction** **for renewable hydrogen production**. We further hope to see you in person or virtually at our workshop on May 16th to discuss the feedback provided

We invite you to provide feedback in the below table on the different design elements of the pilot auction scheme for renewable hydrogen production. Please note the requirements on completion bonds as well as technical and financial check on project/bidder and how they are related. Given the high number of interested stakeholders and our ambition to review all relevant feedback in very short time, please mind the following:

* Short, concise feedback, e.g. in bullet points is sought. If you have overall, high-level feedback, please provide it at the beginning restricting yourself to a few paragraphs.
* Please substantiate your feedback with evidence.
* Don’t feel obliged to provide feedback on all points in the table.
* Please indicate what type of stakeholder you are and whether you intend to bid

**Please send your feedback via email to** [**clima-auctions@ec.europa.eu**](mailto:clima-auctions@ec.europa.eu) **by 11 May 2023.**

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Information about respondent and (optional) general feedback

**Name:**

**Position:**

**Company / Institution / Member State:**

**Type of Stakeholder (e.g. “H2 project developer”, “H2 offtaker”, “industry association”, “Member State” etc.):**

**Intention to bid in 2023 IF pilot auction:**

**General feedback (optional):**

I. General auction design elements

Table 1: Overview of design elements for the IF competitive bidding mechanism - general design

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Design element** | **Concrete implementation in the IF pilot auctions** | **Feedback** | **Substantiating evidence, data sources, background information** |
| (1.0) | Objective of the auction | To cost-efficiently support the production of renewable hydrogen and ensure connection of supply with European off-takers. |  |  |
| 1.1 | Auctioned good | Renewable hydrogen in line with requirements put forward in RED II Delegated Regulations |  |  |
| 1.2 | Constraining value | Auction budget will be constraining value and will be known in advance.  Based on budget constraint and bidding prices, the volume of awarded RE H2 will be identified. |  |  |
| 1.3 | Support  type | Output-based support (payment per unit of verified and certified production). |  |  |
| 1.4 | No reference price needs to be defined for a fixed premium auction (see 1.5). | Non-liquid hydrogen market makes it too difficult to find a reference price that substantially reduces risk. |  |  |
| 1.5 | Fixed premium | Preference of stakeholders, ease of implementation in the regulatory environment of the EC, absence of H2 reference market price, transparency of auction. Lower provisioning costs for EC resulting in higher funding volumes available earlier. |  |  |
| 1.6 | Ensuring competition by: market testing, hard budget cap and feedback on level of competition from one round to another.  No claw-backs. | This approach will ensure sufficient levels of competition from one auction round to another. |  |  |
| 1.7 | Price-only ranking | Price-only ranking |  |  |
| 1.8 | Fixed premium required in EUR/kg of hydrogen production (basis for bid ranking),  Planned average annual production over 10 years that would benefit from fixed premium (basis for the calculation of overall project support) in volume of hydrogen per year,  Capacity of electrolyser (GW\_el) to be certified as being fully operational at Entry into Operation. | Information necessary for clearing the auction, calculating support requirements per bidder and ensuring the budget cap is met. |  |  |
| 1.9 | No limits for the planned production which is defined by the bidder as part of the bid. | Variety in size or other features of hydrogen production projects is expected. The auction should be open to all project to ensure a high level of competition. |  |  |
| 1.10 | Yearly production can be increased by 30% compared to plan. Production above 130% compared to plan is possible but not supported. Support is restricted to 100% over the overall project volume. Support disbursement terminates the earlier of ten years after entry into operation or when the overall financial support is reached (if on average the project produces more than 100% per year (see below) and the total production volume is met earlier).  See also 4.2. for severe underperformance leading to termination of the contract. | Balance between budget provisioning and flexibility of production. No hard sanctions in case of slightly lower or higher production (within limits foreseen).  Operational support and hydrogen offtake agreements are deemed sufficient to incentivise production up to 100%. If more hydrogen can be produced in line with requirements for renewable hydrogen and electricity grids, this is beneficial for the programme. |  |  |
| 1.11 | Limitation to a maximum of 10 years duration for disbursement of support after Entry into Operation of projects.  If, however, the project budget is used up earlier, due to constant production above 100% of planned production, the support is disbursed earlier.  IfEntry into Operation is delayed beyond the maximum realisation period of 3,5 years then the disbursement period is also reduced (as per section 4.2). | Long project lifetime requires long support period to sufficiently de-risk the projects.  While the practice for renewables projects is 10-15Y, limiting support disbursement period helps to address the possibility of overcompensation due to choice of fixed premium (on immature market of hydrogen). |  |  |
| 1.12 | No indexation. | EU-wide indexation not sufficient for risk mitigation. MS specific indexation can level out price differences between MS which should be part of the bid calculation.  Indexation for inflation requires substantial provisioning of support payments and may thus reduce the supported hydrogen volume.  Indexation can be tackled in PPAs and HPAs |  |  |
| 1.13 | No special rules for different technologies, regions or actors are foreseen.  Such tools might be used in later auction rounds, e.g. to reach the IF objective of geographical or sectoral balance or to do broader auctions with different auctioned goods. | Special rules tend to decrease cost-efficiency of the auction. There is only limited budget and there are currently no important reasons to use discriminatory rules. Renewable hydrogen is a sufficiently uniform good.  Sectoral or geographical balance in IF is sought for overall programme operation not a specific call.  Broader eligibility will lead to greater competition, Lower costs risk of market distortions. |  |  |

II. Qualification requirements (single step within auction clearing)

Bidders need to fulfil qualification requirements in order to have their bids ranked. Qualification aims at making sure that bidders are capable of realizing the project, the project is sufficiently advanced to be realized and the participation in the auction is not just used as an option. Qualification requirements can include material (as for example minimum requirements for CO2-abatement, bidder criteria (e.g., previous experience, financial and technical capacity), technical or financial requirements for projects. If completion bonds or other guarantees are used, other requirements can be reduced. The following table lists the qualification requirements proposed for the IF pilot auctions. These also include technical requirements for renewable hydrogen generation and rules for the cumulation of support with other support schemes. Qualification requirements will be assessed on a Yes/No basis.

Table 2: Overview of design elements for the IF competitive bidding mechanism – qualification requirements

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Nr.** | **Design element** | **Concrete implementation in the IF pilot auctions** | **Feedback** | **Substantiating evidence, data sources, background information** |
| 2.1 | Key technical and financial checks for project and bidder[[1]](#footnote-2) | Legal Entity checks (KYC, AML, not sanctioned (call), Anti Bribery, no default...) CINEA/REA  Exclusion of undertakings in difficulty + exclusion of undertakings concerned by the Deggendorf rule (undertakings that have received incompatible aid and are subject to a recovery obligation)  Standard Financial Viability Checks  *Streamlined application Forms A and B summarising the key project details, identification of applicants, planned FC and EiO time, assumptions behind financial model (Financial Information File).\**  *Financial Information File\**  *Any existing information of financing (MoU/LoIs with banks and/or equity investors)\**  *Feasibility study\**  *Business plan\**  Evidence of (pre-)contractual relations:   * MoU[[2]](#footnote-3) or LoI with manufacturer of equipment, electrolyser * PPA: MoU or LoI for fixed-price or narrow sleeve, 10-year PPA, 90% of planned electricity usage * HPA: MoU or LoI for fixed-price, 5-year minimum HOA on 100% of the bid volume with flexibility to renegotiate; defined volume considering possibilities for banking and borrowing * LoI from a bank (min. rating BBB/Baa2) to issue the completion bond requested at grant signature (see 2.2). * Proof of advanced conversation with environmental permit authority and grid provider.   List of self-declarations (general legal implications apply for false declarations in EU application, e.g. if self-declaration is false the support will be recovered and the contract terminated.)   * Declarations on non-cumulation with State aid or funding from other EU programmes for the same project * Declaration that the applicant will produce the RE H2 according to REDII DAs (relevance) * Declaration that it is green field project (co-location of a new project with an existing project is allowed) electrolyser construction has to be new. Standard document. * Declaration that “do no significant harm” check is applied |  |  |
| 2.2 | Bid and completion bonds[[3]](#footnote-4) | No bid bond.  Completion bond covering the amount of 7.5% of the total support volume based on a bank guarantee or guarantee of a mother company, through a bank.[[4]](#footnote-5)  Letters of intent from the bank indicating possibility of the completion bond for a bidder will be required as qualification. Completion bond will have to be signed ahead of contract signature with auctioneer.  The enforcement of completion bonds is further explained in Section 4 below. |  |  |
| 2.3 | Minimum or maximum restriction for project size and for bid volume | Maximum restriction: 33% of initially defined budget available for the respective auction round.  Minimum requirements: 5 MW installed electrolyser capacity |  |  |
| 2.4 | Offtaker restrictions | No restriction regarding clients. Close monitoring of first auction round to avoid that IF mainly funds H2 uptake in the transport/refineries sector. |  |  |
| 2.5 | Local content requirements | None |  |  |
| 2.6 | Regulations for transporting hydrogen | No explicit mechanism to offset comparative disadvantage of projects with infrastructure costs |  |  |
| 2.7 | Consideration of General measures (e.g. green premium stemming from regulations) | As long as these are not State aid but general measures projects are welcome to benefit from such favourable conditions, it will be an element of competition but not distortive |  |  |
| 2.8 | Cumulation with State Aid or EU funding for hydrogen producers | Cumulation with State aid (e.g. IPCEI) or EU funding programmes is excluded. The fulfilment of this criterion will be checked based on a self-declaration. |  |  |
| 2.9 | Cumulation with State aid or EU funding for the hydrogen offtaker. Cumulation with funding for hydrogen infrastructure. | Contracts with off-takers receiving operational support for buying the hydrogen must be excluded.  Support for infrastructure or CAPEX support to off-takers should not be excluded (but declaration required that subsidy will not be used for construction of dedicated infrastructure[[5]](#footnote-6)).  If it cannot be distinguished if the aid received by the offtaker has been for CAPEX only, the project should be excluded.  The fulfilment of this criterion will be checked based on a self-declaration. |  |  |
| 2.10 | Exclusion of cross-subsidisation of “grey” hydrogen | The GHG emissions savings of any non-RFNBOs produced by beneficiaries in the aided projects, which will not be subsidised under the scheme, must meet 70% GHG reduction threshold of RED II DA, on average during the lifetime of the scheme.  Based on self-declaration and submitted certification during operations. |  |  |

III. Design elements defining the auction procedure

Table 3: Overview of design elements for the IF competitive bidding mechanism - auction procedure

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Nr.** | **Design element** | **Concrete implementation in the IF pilot auctions** | **Feedback** | **Substantiating evidence, data sources, background information** |
| 3.1 | Competitiveness of the process | No discrimination on participants in auction.  Transparency on requirements and sufficient lead times to prepare bids.  Budget is a limiting constraint.  No ex-post adjustments of auction rules. |  |  |
| 3.2 | Single vs. multiple-item auction | Multiple-item |  |  |
| 3.3 | One-stage or two-stage auction | One stage |  |  |
| 3.4 | Auction type | Static auction |  |  |
| 3.5 | Pricing rules | Pay-as-bid |  |  |
| 3.6 | Minimum prices | No minimum price |  |  |
| 3.7 | Ceiling prices | Disclosed ceiling price: 4.00 €/kg of hydrogen produced as a maximum bid for the fixed premium.  To be reviewed in subsequent auction rounds. |  |  |
| 3.8 | Clearing mechanism and marginal bid | The last bid that exceeds the pre-defined auctioned volume will be rejected and the auction volume decreased.  The un-allocated remaining budget will be transferred to the next auction round. |  |  |
| 3.9 | Tiebreaker rule | If two bids have the same support level, the bid with the overall smaller support requirement will be awarded. If two bids have the same support requirements, the one from the country with less bids awarded in the same auction will be awarded. If both projects are from countries with an equal sum of IF projects awarded, shorter stated times until EiO are considered. |  |  |
| 3.10 | Minimum volume of bidders | Endogenous rationing is excluded all conditions are set ex-ante. |  |  |

IV. Design elements defining rights and obligations

Table 4: Overview of design elements for the IF competitive bidding mechanism - Rights and obligations

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Nr.** | **Design element** | **Concrete implementation** | **Feedback** | **Substantiating evidence, data sources, background information** |
| 4.1 | Realisation periods | 3.5 years, see also section 4.2 |  |  |
| 4.2 | Sanctions in case of non-compliance with support requirements | If the maximum realisation period is exceeded by six months or more, the completion bond is called and the contract is cancelled.  If the maximum realisation period is exceeded by less than six months, the total support is reduced: 1/20 of total support budget is lost.  Termination clause applies when project produces on average (cumulative, rolling basis) below 30% of planned yearly production for 3 years in a row. |  |  |
| 4.3 | Payment schedules | Annual. |  |  |
| 4.4 | Reporting requirements | Reporting to implementing agency is tied to payments.  Defined in call conditions, reporting will cover the renewable H2 volumes produced and certified as well as final offtake agreements. |  |  |

V. Design elements defining the auction and framework conditions

Table 5: Overview of design elements for the IF competitive bidding mechanism - auction and framework conditions

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Nr.** | **Design element** | **Concrete implementation** | **Feedback** | **Substantiating evidence, data sources, background information** |
| 5.1 | Scheduling/auction frequency | Annual auction schedule |  |  |
| 5.2 | Timing of the auction (early stage or late stage auction) | Late stage auction |  |  |
| 5.3 | Implementing authority | CINEA (delegation still outstanding) |  |  |

1. *IMPORTANT: Depth of descriptions in project application and number of documents requested marked with (\*) depends on the use of completion bonds. Feedback of stakeholders is sought on preference between completion bonds and requested documentation, especially for smaller companies and new market entrants.* [↑](#footnote-ref-2)
2. *Existing contracts equally acceptable wherever MoU or LoI is mentioned*  [↑](#footnote-ref-3)
3. *IMPORTANT: Depth of descriptions in project application and number of documents requested marked with (\*) depends on the use of completion bonds. Feedback of stakeholders is sought on preference between completion bonds and requested documentation, especially for smaller companies and new market entrants.* [↑](#footnote-ref-4)
4. *The maturity of the requested completion bond needs to cover at least the maximum time until entry into operation (4 years) plus time to verify entry into operation. If entry into operation is reached earlier, the bond can be released.*  [↑](#footnote-ref-5)
5. *In line with CEEAG* [↑](#footnote-ref-6)