

Kazakhstan

Relevant Laws

1. [Kazakhstan Law of Subsoil and Subsoil Use, July 2010, No. 291-IV](#) (2010 Law)
2. [Kazakhstan Code on Subsoil and Subsoil Use, December 27, 2017](#) (SSU Code 2018)

Conditions for Competitive Bidding

In Kazakhstan, proposals are submitted by the authorized body “for the study of and utilization of mineral resources ... to the competent authority on the formation of draft lists of subsoil to be on tender” (Article 20 (13), 2010 Law). The rights to explore the subsoil areas indicated on such draft lists may be granted by tender to a foreign entity, except when such entity is working with a national company and where the direct negotiation of a contract is possible. The rights to use such subsoil areas may be granted without tender to national companies or to persons making commercial discoveries under exploration contracts on the basis of direct negotiations (Article 31, 2010 Law).

The SSU Code 2018 introduced a new licensing system according to which the subsoil use right is granted on a first come, first served basis to interested parties by issuing licenses for certain types of activities including geological studies, exploration and production of solid commercial minerals, production of common commercial minerals, subsoil space consumption, gold mining. The contracting system granted through an auction process as described above is preserved in relation to the operations of exploration and production of hydrocarbons and production of uranium.

Two-Tier Bidding – Pre-Qualification Criteria

Information incomplete or unavailable.

Bidding Process

The tenders are organized by the Ministry of Industry and New Technologies. The governing body is the Commission for the tender for subsurface use rights. Bids for the right to subsoil use for production of common minerals are reviewed and evaluated to determine the winner from among bidders of a tender (Article 22, 2010 Law). The release of the “term of summarizing the competition” must be made within fifteen (15) days from the date of the deadline for submission of the bids, which period can be extended for no longer than one (1) month (Article 52, 2010 Law). The contract for subsoil operations is concluded based on tender results. Subsoil use rights may be granted without tender on the basis of direct negotiations (*i.e.*, to national companies or a person making a commercial discovery under an exploration contract) (Article 31, 2010 Law).

The license must be considered by the authorized body within ten (10) working days. The SSU Code 2018 replaces the three types of contracts for hydrocarbons (exploration, production and combined) by two types of contracts, namely exploration and production, establishing a clear condition for the end of exploration period.

The SSU Code 2018 establishes that the winner of the auction, within twenty (20) working days after publication of the auction results shall submit to the competent authority a programme of work for the exploration period, which shall become part of the contract, with minimum indicators by volume, description and deadlines.

Biddable Factors

The winner of the competitive tender is determined by the assessment of the following factors submitted in the bid: (1) the amount of the signature bonus; (2) the amount of expenses for social-economic development of the region and development of its infrastructure; and (3) the amount of expenses for personnel content and training, local content in goods and services, research and development work, and payment for geological information (Article 52, 2010 Law).

Examples: Minimum local content in goods, works and services, minimum local content in frames; minimum cost for training of Kazakh personnel; size of R&D spending; the starting amount of a signing bonus (Article 47, 2010 Law).

The SSU Code 2018 excludes the obligations of a subsoil user engaged in exploration of hydrocarbons for the payment of expenses for personnel training, the financing of research and development of work, and the socio-economic development of the region. These obligations arise only from the second year of investments under the subsoil use contract.

Bidding Fee – Revenue/Buy-In

The law contains some information about the amount of fee for participation in the competitive tender process and bank account to which such fee must be deposited, implying that a fee is required, when it discusses what the notice on the tender for subsurface use rights must contain, but does not provide further detail as to the specifications of the fees (Article 47 (4), 2010 Law).

The license for exploration shall contain an obligation to pay a signature bonus and a fee for use of land plots (rental payment) in the amount and under the procedure set forth by tax legislation of Kazakhstan (Article 191 of the SSU Code 2018)

Eligibility

Eligibility information is unclear.

Other Sources

1. [Aequitas, Subsoil Legal Regime in Kazakhstan](#)
2. [Grata International, New Code on Subsoil and Subsoil Use for mining companies](#)