
New regulation of marine renewable energy in Spain

Royal Decree 962/2024 establishes a competitive bidding procedure for the authorization of marine renewable installations.

Legal flash – Energy

October 3, 2024



Key aspects

It regulates a competitive bidding procedure for the award of marine renewable energy installation permits:

- The procedure simultaneously awards the economic regime for renewable energies, the reservation of access capacity in a specific node of the transmission network, and priority in the granting of sea and land public domain concessions.
- The development of the bidding procedure and the terms and conditions that will govern it are postponed to a subsequent ministerial order.
- A special regulation is established for installations considered innovative or that are located in State-owned general interest ports.



New regulation

- Royal Decree 962/2024, of September 24, regulating the production of electricity from renewable sources in offshore installations (“**RD 962/2024**”) replaces the previous regime in Royal Decree 1028/2007, of July 20, establishing the administrative procedure for processing applications authorizing offshore electricity generation facilities in Spanish territorial sea waters.
- Through the new regulation, which came into force on September 26, 2024, a **competitive bidding procedure** is established to be applied to all renewable energy installations located at sea. Exceptionally, a specific procedure is envisaged for innovative marine renewable installations located outside high potential areas for the development of offshore wind energy defined in the maritime spatial planning plans (POEM) and for installations located in zones I and II of the State-owned general interest ports.
- The **terms and conditions** of the competitive bidding procedures will be governed by a ministerial order that must be approved by the Ministry for Ecological Transition and the Demographic Challenge, following the agreement of the Delegated Government Committee for Economic Affairs (the “**Terms and Conditions Order**”).
- Following the approval of the above ministerial order, RD 962/2024 provides for a novel **public dialog phase**, which aims to include the proposals made by the different stakeholders and affected parties in the ministerial order that announces the competitive bidding procedure.
- RD 962/2024 also establishes the transitional **regime applicable** to applications initiated under the framework established by Royal Decree 1028/2007, which is repealed.

Material scope

- RD 962/2024 regulates the competitive bidding procedure necessary to obtain authorization to produce energy in marine renewable installations located in all marine waters—including the seabed, subsoil and natural resources—subject to Spanish sovereignty or jurisdiction, as well as the special administrative procedures to be applied to innovative marine renewable installations located in zones I and II of the State-owned general interest ports.

Main features of the competitive bidding procedure

Applications and assessment stage

- **Applications:** Applications to participate will be addressed to the Directorate General of



Energy and Mines, according to the ministerial order. They must be accompanied by a receipt from the State Deposits Bank (*Caja General de Depósitos*) certifying that the required guarantees have been deposited. A period of 10 days for the correction of any defects will be allowed after the publication of a provisional list of admitted and rejected applications. Their correction may in no case include an improvement of the initial application.

- **Assessment stage:** Once the applications have been admitted, they will be subjected to an assessment stage. Those that are declared successful bidders will be registered—in the preassignment state—in the electronic register of the renewable energies economic regime.
- **Change of holder:** Any change in the holder of the rights conferred in the competitive bidding procedure must be authorized in advance by the Directorate General of Energy and Mines to assess whether the new holder meets the required criteria. For these purposes, the interested party will submit, together with the application for authorization of the change of holder, proof of the new holder's compliance with these requirements.

Effects arising from the competitive bidding procedure

- The following are **awarded simultaneously** through competitive bidding: (i) the renewable energies economic regime; (ii) the reservation of access capacity in a specific node of the electricity transmission network; and (iii) priority in granting the concession for the occupation of the sea and land public domain.
- These powers are conditional on **registration in the electronic register** of the renewable energies economic regime with operating status.

Guarantees required to participate in the competitive bidding procedure

- To participate in the procedure, it will be mandatory to **deposit the guarantee** required to register—in the preassignment state—in the electronic register of the renewable energies economic regime established in Article 25 of Royal Decree 960/2020, for the amount determined in the order approving the procedure's terms and conditions. Once the procedure's decision has been issued, the Directorate General of Energy and Mines will issue, on its own motion, an order to return the guarantees for the portion of the capacity that has not been allocated.
- The deposit of this guarantee constitutes a waiver of the guarantees required to process the access and connection procedures, as detailed below, and of the guarantees required in the environmental assessment procedures. It will also be taken into account as part of the final bond required to process the concession to occupy the sea and land public domain.



Ministerial order approving the terms and conditions of the competitive bidding procedure

- As indicated above, the implementation of RD 962/2024 is subject to the approval of the Terms and Conditions Order.
- The Terms and Conditions Order will include:
 - (i) The quota of the capacity to be awarded. The obligation to award the entire capacity to a single bid may be established, or the capacity may be divided among several bids linked to installations of lesser capacity. In the latter case, a procedure must be determined to prevent overlapping.
 - (ii) The area or areas where the generation plants will be located.
 - (iii) For each area, the access capacity and the connection nodes.

Financial criteria

- To assess the financial criteria, the application must include the **price offered** per unit of electrical energy related to the renewable energies economic regime, expressed in euros/MWh, which cannot be modified during the procedure.
- The announcement will include a maximum financial offer price, in other words, a **reserve price**, and may also include a minimum price or risk price.

Non-financial criteria and requirements

- RD 962/2024 establishes criteria and requirements that may be included in the terms and conditions of the procedure when weighing and evaluating the applications for award. The procedure may include the possibility of allocating **up to 30% of the weighting to non-financial criteria** (design and environmental and socioeconomic impact of the installations, quality and safety of the electricity supply, conservation of the sea public domain and national defense interests).

Economic framework

- The competitive bidding procedure grants the renewable energies economic regime under the provisions of **Royal Decree 960/2020**.
- RD 962/2024 also introduces the special feature of an **exceptional extension period** of the maximum delivery term of up to 30 years, which is applicable exclusively to marine renewable technologies.



- The Terms and Conditions Order will define, among other parameters, the deadline for the availability of the facility and, where appropriate, the cases for granting extensions. However, under no circumstances may the availability of the facility be extended beyond the date of the 5th milestone for obtaining the final operating administrative authorization set out in article 1 of Royal Decree-Law 23/2020, of June 23, which establishes as a special feature a nine-year period for offshore wind installations.

Access and connection to grids

- The decision in the procedure that leads to the winning bidders' registration—in the preassignment state—in the electronic register of the renewable energies economic regime entails the reservation of access capacity in favor of the winning bidders in a specific node of the energy transmission grid.
- Therefore, the nodes reserved for the tender may be used to evacuate the energy generated by marine renewable installations.
- As a special feature, when the winning bidders submit an application for access and connection permits, they will be exempt from posting the necessary guarantees to process the access and connection procedures if they submit a copy of the receipt certifying that they have posted a guarantee for registration—in the preassignment state—in the electronic register of the renewable energies economic regime and they maintain it until the final operating authorization of the installation is obtained.

Administrative procedures

- **Authorizations:** Once a participant has obtained winning bidder status in a competitive bidding procedure, the owners of the installations linked to winning bids must start processing all the administrative authorizations that may be required and, specifically, those established in article 53 of the Electricity Sector Act.
- **Withdrawal:** In the event of withdrawal prior to the deadline for availability, the developer must notify the General Directorate of Energy and Mines. This will result in the execution of the guarantees deposited. However, this execution may be waived if the withdrawal is due to a report or decision of a public authority that prevents the construction, and this is requested by the developer.
- **Amendments:** Exceptionally, and due to unforeseen circumstances, the possibility is contemplated of modifying certain aspects of the winning bid in the procedure if the following conditions are met:
 - No bidder other than the one selected through competitive bidding would have been selected due to those amendments.



- It does not involve an increase in the awarded price.
- The electricity generation installation can be regarded to be the same, according to the criteria set out in Annex II of Royal Decree 1955/2000, of December 1.

Administrative procedures applicable to installations not participating in the competitive bidding procedure

RD 962/2024 establishes a waiver of the requirement for the following installations to have the status of a winning bid in the competitive bidding procedure to begin processing the authorizations set out in Article 53 of the Electricity Sector Act:

- **Innovative marine renewable installations located outside high-potential areas** for the development of offshore wind energy as defined in the maritime spatial planning plans (POEM), which do not exceed an installed capacity of 50 MW for offshore wind installations and an installed capacity of 20 MW for non-wind marine renewables. The innovative nature of the installations will be evidenced through reports from the Ministry of Science, Innovation and Universities, and the Spanish Institute for Energy Diversification and Saving (*Instituto para la Diversificación y Ahorro de la Energía*, or IDAE) establishing that the activity is considered to be research and development or technological innovation. Installations that apply for authorization for a term of less than five years will be exempt from this report. In the case of offshore wind installations, those that have only one wind turbine will also be exempt.
- **Installations located in zones I and II of the State-owned general interest ports**, as defined in Article 69.2 of the consolidated text of the State Ports and Merchant Shipping Act.

For additional information, please contact our [Knowledge and Innovation Group](#) lawyers or your regular contact person at Cuatrecasas.

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