Danish Energy Agency

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Tender of licenses for investigation and CO_2 storage

FAQ – updated on 27 September 2022

The DEA has received a number of questions regarding the tender of licenses for investigation and CO_2 storage that began on 15 August 2022.

In order to secure transparency during the application process, the questions are presented below with the DEA's answer in *blue italics.*

Q1. How should the license duration be defined?

A1. In the application, the duration of the investigation license must be defined as the amount of time the applicant requires to sufficiently define a suitable CO_2-storage location, as set out in the model license (annex3), section 4, subsection 2.

The defined duration should not include any potential extension of the investigation license. The duration of the license will run from the date that the license is awarded, as set out in appendix 3, section 5, subsection 1. The specific dates of the duration of the investigation license will therefore be determined after the license has been granted.

Q2. Is there a special terminology preferred by the DEA in terms of project phases/activities/processes in the Work Plan? (Annex.1, section B1.2 & B1.5)

A2. The DEA does not require a fixed terminology when describing the project in the application. It is however important that it is possible to distinguish clearly which parts of the project that are conditional and which that are unconditional, cf. section 4 of the invitation letter.

Q3. How far out in time do DEA expect the Work Plan to cover? FID, Potential commencement of Storage facility… (Annex.1, section B1.2.e and B1.5)

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A3. The Work Programme ('Arbejdsprogram') should cover the investigation period for defining the suitability of a CO_2-storage location. The application should however also give a description of the actual plans for a storage project in the license. In this regard, the DEA accepts that conditionalities will increase further down the timeline, and especially when considering a move from the investigation phase to the storage/operations phase.

Q4. Should the budget information cover the exploration period only? What type of budget information is expected for project phases beyond the exploration phase?

A4. The budget information stated in Annex 2 should cover all phases up until the establishment and commissioning of a potential CO_2-storage facility. A description of the financing method for the activities of each phase up until the potential commissioning of the particular CO_2-storage facility should be included. If the applicant plans to engage a third party who might affect the financial capabilities of the applicant, the cooperation agreement between the parties should be included in the application.

Q5. Can the budget breakdown be adapted compared to the table? (Annex.1, section B1.2.e)

A5. The breakdown of budget information will be included in the overall evaluation of the application, namely in determining the financial capacity of the applicant. The budget breakdown may be adapted compared to the table, as long as the budget information stated in Annex 2 covers all phases up until the establishment and commissioning of a potential CO_2-storage facility.

Q6. Concerning Finance plan, what is expected here? – If the activities are financed by cash, issuing debt or other measures? If yes, is this piece of information of significant importance? (It might not be decided upon yet). Is a finance plan expected from each applicant? (Annex 2, section B1.2.g)

A6. The Finance Plan will be included in the overall evaluation of the application, namely in determining the financial capacity of the applicant. The contents of the Finance Plan should be sufficient to convince the DEA that the applicant is capable of financing each phase up until the commissioning of the CO_2-storage facility. The content should therefore comprise of sufficient characteristics to determine whether the applicant possess such capabilities. The information will be included in the determination of whether the applicant is suited to perform the necessary investigation.

Q7. Please elaborate further on the intention of B.1.3.l) in Annex 1, concerning DataBank, and what role this will play in the assessment by the DEA.

A7. The intention of B.1.3.I. is relevant for determining the technical abilities and foundation of the applicant or the technical abilities that the applicant is able to acquire, in order to perform a satisfactory investigation of a potential CO_2-storage facility. The section is for example relevant where an applicant already has a large amount of data available on the area.

Q8. How do DEA weight the individual selection criteria?

A8. The DEA evaluates the application as a whole, and compares the application to other applications to determine, which applicant has the investigation Work Programme best suited for exploration of the particular area.

The Danish Subsoil Act does not provide a method for setting scoring criteria when tendering § 23 licenses.

Q9. Elaborate on what exactly is a "block" and which role blocks play in the area applied for. E.g., what is meant by reference to 1-2 blocks at the information meeting August 15 and as mentioned in the Statement page 6/7? Should the area covered be limited to cover a certain number of blocks?

A9. "Blocks" refers to the squares within the tendered area of Annex 1 and are determined on the basis of longitude, latitude and minutes (the lines passing vertically and horizontally through the map in Annex 1). The blocks are used as an ordering device for keeping track of issued licenses and activities in the North Sea and each block has a size of 7.5 latitude minutes and 15 longitude minutes. An application can be made for an area that corresponds to one or potentially several blocks or can be specified to a more detailed set of coordinates than the blocks on the map. The DEA has updated the tender material to include a map of the tendered area with the distinct block numbers.

The DEA also refers to the invitational letter, section 4, subsection 3 (specific storage potentials).

Q10. If several participants apply, a legally binding cooperation agreement must be attached to the application. Could you elaborate on what is expected and what the relation is to the requirement that a successful applicant must enter into a JOA no later than 90 days after permission is granted to ensure the permission is effective?

A10. Annex 2, section B.1.1.d does not necessarily refer to a binding JOA between the applying parties, however in order to evaluate technical and financial capacity it is necessary for the DEA to see documentation for the cooperation relationship between the applying parties (AMI agreement or similar).

Section 18 of the model license refers to the Joint Operations Agreement (JOA), a model JOA has been provided along with the tender material.

Q11. Please confirm potential Environmental implications of the work programme at this point in time do not play a role in the assessment as such will be evaluated specifically later by the DK authorities? (In line with the overall Environmental Impact Assessment performed by the DK authorities as a basis for the tender)? (Invitation, section 7 and Statement, page 4/7&5/7)

A11. The DEA does not consider environmental impact assessments related to the storage projects as an evaluation criteria for the tender of licenses. Such impact assessments will however be required for certain works within the scope of the Danish Subsoil Act, i.e. in connection with § 28 permits.

Q12. Para.1 in § 3 of the Permit states the permit grants an exclusive right to inject and store CO_2. Para. 2 in § 3 states the Permit holder must respect other Permit holders activities with respect amongst other things, storage. Please elaborate on the exclusivity in light of Para. 2 and other potential permit holders.

A12. Subsection 1 of the model license grants the exclusive right to inject and store CO_2 in the particular area, however, it does not follow from the Subsoil Act that a license for the storage of CO_2 formally precludes giving licenses for other uses according to law[1]. Possible interfaces with other licenses are considered when licenses are awarded according to the Subsoil Act.

Q13. Section 5(1) of the Permit states that the extension of the exploration permit may be granted for '4 years at a time' (with a max. duration of 10 years). This wording is somewhat different than the wording in Subsoil Act s. 23(1), which state that the exploration permit may be extended for 2 years at a time (with a max. duration of 10 years). Please elaborate on this difference.

A13. The DEA has evaluated further on the CCS tender material, and it seems the published model license contained an erroneous reference to rules of the Subsoil Act concerning the extension of oil & gas licenses. The material has been updated to be in line with the Subsoil Act. The extension may be granted for 2 years at a time.

Q14. Section 6(1) and Section 5(3) of the Permit; there appear to be a repetition between section 5(3) and 6(1) of the permit with regard to submission and request for approval of a storage plan being a condition of the extension. Section 5(3) states that "The right to an extension referred to in subsection (2) is subject to the licensee having fulfilled his obligations, including…submitting, in accordance with

[1] In line with the special comments to section 5 of the Subsoil Act of 1981.

section 4 of the permit, a request for approval of a plan for the storage undertaking'. Section 4 of the permit refers to the storage plan under s.23 d (2) of the Subsoil Act. Section 6 (1) states that 'Extension of the permit pursuant to section 23(2) for the purpose of storing CO2 shall be subject to the condition that the rights holder submits a storage plan for the storage business, including the organisation of the storage undertaking and its facilities (storage measures, etc.), which the competent authority may approve in accordance with section 23 d (2) of the Danish Underground Act'. Please confirm, these two sections say the same or alternatively please explaining the difference.

A14. The DEA can confirm that the Storage Plan referred to in both sections refer to a Storage Plan submitted for approval according to section 23 d, subsection 2 of the Subsoil Act.

Q15. Section 32(3) of the Permit regarding financial security – Please elaborate on how subsection (3) is different from, or what does it add, to subsection (1) regarding the requirement for financial security under s. 24 f of the Subsoil Act? What additional security (over and above what is requested in subsection (1)) is covered by subsection (3)? What form would it have and what amount?

A15. Section 32(3) of the model license does not confer further obligations on the licensee than what is already applicable pursuant to section 24 f of the subsoil act. It does however specify that the licensee will be under obligation to put security in place, for assets also in use in connection with other activity governed by the Subsoil Act, if the other activity should cease.

Q16. The invitational letter of 12 August 2022 section 4, p. 4 (on technical and financial capacity:
The letter states that competencies that rely on external subcontractors must be documented by "legally binding agreements with subcontractors as a "minimum requirement" that needs to be complied with in order to be considered for a license in the first place". Such legally binding agreements (i.e. delivery of seismic surveys, drilling rigs or consultancy services) cannot be expected to be made, until the bidder has been awarded a license and thus can be certain that the offered work programme must be delivered due to the burdensome nature of such agreements.

Otherwise, it would lead to significant costs for the bidder to; for example, make reservations for ships, rigs or equipment. On top of that is the short time limit for announcing such minimum requirements for the tender [of licenses] that make it impossible to reach such agreements [within the time limit]. Sustaining the minimum requirement will therefore realistically mean that it will keep most bidders from applying under the tender.

A16. The evaluation criteria described in the invitational letter section 4 regarding technical and financial capacity derives from the rules in chapter 7 a, of the Subsoil Act.

While the DEA recognizes that it could, in certain situations, be seen as unreasonably burdensome for an applicant, to commit to a binding agreement with a subcontractor or consultancy before a license is actually awarded, the DEA reiterates that in order to determine that an applicant has the necessary technical capacity, it must be documented that such agreements will be in place from the moment the license is awarded. Alternatively, the license cannot be given in conformity with chapter 7 a, of the Subsoil Act.

The DEA would also like to clarify that the agreement examples mentioned in the question (for example for seismic surveys or drilling rigs) are not necessarily relevant for evaluating technical capacity. For further information, please see the DEA Guidelines on Technical Capacity Concerning the Use and Exploitation of the Danish Subsoil here.

Q17. The invitational letter of 12 August 2022 section 6, p. 8 (on guarantees):
It is recommended that the scope of guarantees and economic securities is described and delimited in relation to e.g. a worst-case scenario. Requiring a parent company guarantee could potentially keep possible bidders from applying under the tender.

A17. The requirement for parent company guarantees stems from chapter 7 a, of the Subsoil Act, namely the rules regarding financial capacity. The DEA wishes to reiterate that parent company guarantees are necessary for establishing sufficient economic safety for a license governed by the Subsoil Act.

Q18. Annex 2 section B1.1.d, p. 1 and annex 3, section 18, p.5 (on cooperation agreements:
Annex 3 (the model license) states that: ”The permit shall be subject to the signing of a cooperation agreement within 90 days of the permit, between the holders of the permit”.

Furthermore, Annex 2 states that the application itself should contain “Documentation of a cooperation agreement if other companies participate in the application together with the applicant”.

The DEA is requested to clarify the necessity of attaching documentation for a binding cooperation already at the time of application.

A18. The DEA refers to the answer to question 10.

Q19. The invitational letter of 12 August 2022 section 4, p. 5 (on evaluation criteria):
The criteria that applicants are evaluated on, could preferably be prioritized, and it should be defined how the individual criteria are weighed.

A19. The DEA refers to the answer to question 8.

Q20. Annex 2 section B1.2.e and B1.5 (on work programme and budget):
Information is requested on how the work programme should be scheduled, i.e. how far ahead in time the DEA expects the work programme to go. (I.e. all the way to or even after initiation of storage or only until the time of applying for a storage permit based on the results of the investigation activities).

Furthermore, the descriptions of the budget- and table view are unclear, and it lacks clarification on whether the accounts of the table are specific minimum requirements or examples. Furthermore the shown table indicates that salary costs should be specified – it is however unclear, why the DEA needs information on this matter. Please clarify these matters.

A20. The DEA refers to section 4 of in the invitation letter regarding evaluation criteria, namely the subsection regarding conditional and unconditional activities, where unconditional activities are generally favoured.

The DEA refers to the answers to Q2-6. Concerning the table in Annex 2, this should be seen as an example for guidance in terms of both format and content. However, the application should make it possible for the DEA to distinguish inter alia between costs related to actual investigation activity and administration or similar, and in this aspect, the DEA reiterates that the example costs would be suitable for this.

Q21. It is requested that the DEA's requirements for awarding of a storage license be published.

A21. The requirements for obtaining a storage license are set out in the model license section 4, 5 and 6.

Q22. There is a request for a general clarification on how the DEA views the transition from an oil & gas license [to a CO_2 storage license], if the license participants differ from the oil & gas license to the CO_2 storage license.

A22. The DEA is open to provide guidance on the interface between an oil & gas license that overlaps geo- or stratigraphically with a CO_2-storage license, albeit where the license is held by different companies. It is however difficult to provide

general guidance on a matter that must be handled specifically according to the specific licenses and license holders.

The DEA is of the opinion that section 32 a, of the Subsoil Act does not prohibit converting of oil & gas assets into CO_2 storage.

Q23. What is considered 'provide security equalling the amount and nature as may be approved by the DEA' (ref. "Invitation to apply for licenses for geological storage of CO2 on the Danish continental shelf" dated September 9, 2022, section 6)

What sort of guarantee is required? Payment guarantee or performance guarantee? Or any other form of bank guarantee or any form covering the committed work program is sufficient?

What amount should be guaranteed? (work program value as defined by applicant?) Is a Standard bank guarantee against the committed work program value suitable?

When would such a guarantee come into effect? After granting of licence?

Treatment of guarantees from other parties to the application: Is this to be understood as joint & several liability? If yes, please confirm whether liability principle of joint liability under the licence can be modified.

Is there a template adapted for CCS?

A23. As mentioned in the invitational letter, p. 8, the main rule is that an unlimited parent company guarantee from the ultimate parent company is required to comply with section 24 f and 23 q of the Subsoil Act and section 32 of the model license.

For the purpose of CO_2 storage licenses, the DEA is drawing upon the practice from oil and gas licenses, where the DEA model parent company guarantee has been used. The DEA is of the opinion that this model guarantee mutatis mutandis is suitable for CO_2 storage licenses as well. The model guarantee can be found in Danish and in an unofficial English translation here: https://ens.dk/en/our-responsibilities/oil-gas/legislation-and-guidelines

The guarantee must be provided no later than 30 days after the award of the license.

It follows from the model license section 31 that where a licensee consists of several parties, they are jointly and severally liable for claims for damages under section 35 of the Subsoil Act. The DEA has not found any reasonable basis for modifying this rule.

Q24. As stated below, area can be delimited in depth in the application. Do applicants need to specify a specific depth or can they specify a well-defined and calibrated stratigraphic boundary?

If there is a spatial overlap with an existing O&G asset is it possible for the applicant to 'carve out' this O&G licensed spatial extent to simplify the process.

In the case of multiple but partially spatially and stratigraphically overlapping applications what is the procedure, DEA expect to follow, to reach a decision on final permitted areas?

When defining the area, it could happen to be above or below existing o&g fields. Does the area needs to be carved out if such intervals are covered today by existing O&G licence?

A24. The exact area of a license for investigation and CO_2 storage will be defined in the license. Consequently, the DEA has not specified a specific format that needs to be followed for the application, however in case applicants delimit the area in depth, this has to be defined as mbmsl that is meters below mean sea level.

This also makes it possible for applicants to "carve out" areas from the application. With reference to A12, it does not follow from the Subsoil Act that a license for the storage of CO_2 formally precludes giving licenses for other uses according to law. Conversely, an existing oil & gas license does not preclude a CO_2 storage license being award in a wholly or partially overlapping area. Such an overlapping CO_2 storage license may however not lead to enhanced oil recovery in an oil & gas license.

If several applications are received for the same or overlapping areas, the DEA will make a specific assessment according to the evaluation criteria mentioned in the invitational letter, to ensure an optimal use of the Subsoil. It must be specifically assessed whether one application must be awarded over the other, if it is possible to divide the area, or whether both applying parties can cooperate under one license.

Q25. Is the application binding from moment of award or could the applicant(s) decline to accept the award? Please confirm there are no consequences of not accepting the award

If the DEA wishes to amend the surface or definition applied for how will the applicant be contacted and what will be their timeframe for acceptance of any proposals?

What would be the consequence if for some reason the unconditional work program were not fulfilled?

A25. The application to the tender itself is not binding. However, when the minister awards a license, this is a binding decision, and so from that moment the licensee is obligated to complete the work programme under the license.

It follows from section 36, subsection 2 of the model license that If any part of the work programme has not been carried out when the license is relinquished, the licensee shall (unless the competent authority grants a derogation thereof) pay to the Exchequer an amount equal to what the fulfilment of the obligations would have cost.

It should be noted however that the DEA can enter a dialogue with the applicants as part of the evaluation of the applications. As a step in this dialogue, the DEA will send an offer letter with the proposed license to the applicant before the license is presented to Parliament with a view to the minister making his decision.

Q26. Please confirm, that if anybody request access to the content of an application submitted by an applicant, such application material will not be released prior to award and the applicant will anyway get the opportunity to remove 'sensitive' information.

A26. If a request for access to information is made in relation to the tender of CO_2 investigation and storage licenses under the Publicity Act or the Public Administration Act, a decision must be made specifically and within the time limits of the Environmental Information Act. When assessing such a request, the DEA would have to ask the opinion of the applicant, which the information concerns, on which information must be considered sensitive.