



Montenegro
Ministry of Economy

**CONCESSIONARY ACT FOR CONCESSION AWARD TO EXPLOIT
WATER STREAMS FOR CONSTRUCTION OF SMALL HYDROPOWER
PLANTS IN MONTENEGRO**

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1. Introduction

Pursuant to the *Energy Development Strategy of Montenegro until 2025, Action Plan for the Implementation of the Strategy for period 2008-2012*, as well as *Strategy for Development of Small Hydropower Plants in Montenegro*, Ministry of Economy of Montenegro (Authorized institution) prepared Concessionary Act for concession award to exploit water streams for construction of small hydropower plants in Montenegro (Concessionary Act). In Concessionary Act, public announcement and Tender documentation, exploitation of water streams stands for the techno-economic use of water-energetic potential of water streams for production of electrical energy.

Concessionary Act has been prepared in accordance with the Law on Concessions («Official Gazette of Montenegro», no. 08/09) and contains data, information and analyses related to the concession award to exploit water streams for construction of small hydropower plants in Montenegro. This document explains roles and responsibilities of bidders during the bidding process, as well as requirements and obligations to be fulfilled by concessionary when conducting concessionary activities.

Objective of the public bidding process is election of good-quality concessionaries to construct small hydropower plants in Montenegro, with the purpose of the exploitation of the water-energetic potential of water streams. Concession award process is carried out as a two-phased process, since a considerable number of bidders is expected. Two-phased process comprises of:

- public announcement of prequalification;
- prequalification phase when tender commission evaluates application for prequalification, and accepts or rejects applications based on previously determined criteria;
- submission of Concessionary Act to qualified bidders, purchase of Tender documentation and bid submission by qualified bidders within a given deadline;
- evaluation and ranking of bid submitted by qualified bidders; and
- determination of the submitted proposal for concession award, and selection of bidders for concessionaries.

Bidder is to submit application pursuant to the Public announcement of prequalification, realized for the group of water streams. Qualified bidder submits bids for individual water streams from groups of water streams for which the status of qualified bidder was acquired. Bidder is required to submit in the qualification phase Preliminary/conceptual design for exploitation of water streams for construction of small hydropower plants on that water stream. Qualified bidder, whose bid is evaluated and assessed as the most favorable, will be recommended to be selected as a concessionaire on the water stream in question. Concessionary activities comprise of: design and planning, construction and the techno-economic use of water-energetic potential of water streams for production of electrical energy from small hydropower plants.

Concession is given for the construction of small hydropower plants in Montenegro. The subject of concession is design and planning, construction, use and maintenance of small hydropower plants on ten water streams. Water streams are divided in three groups: Savnik group, Berane group and Plav group. Savnik group consists of four, and Berane and Plav group each of three water streams.

Selection of water streams was performed based on the hydrologic measuring and research on specific micro-locations, done by the Hydrometeorological Institute of Montenegro. According to these hydrologic measuring and data, potential total installed capacity on water streams in question is 18 MW, with total estimated annual production of electrical energy of 77,1 GWh. Hydrologic data represents starting base for development and planning of small hydropower plants construction on selected water streams, but they are not the guarantee to the investor, based on which they may have a right to demand any damage coverage.

2. Description of the subject of concession and location o which the concessionary activities will be conducted

Subject of concession is design and planning, construction, use and maintenance of small hydropower plants on water streams, as defined in the Law on Concessions. Design and planning represents development and preparation of technical documentation and all required research performed until the civil permit is obtained; construction represents building of the small hydropower plant facilities (sHPP) until the usage permit is obtained; use represents the techno-economic use of water-energetic potential of water streams for production of electrical energy from small hydropower plants. SHPP are hydropower plants up to 10 MW of installed capacity (Energy Law, (“Official Gazette of Republic of Montenegro”, no. 39/03). Ten individual water streams are location on which concessionary activities are to be conducted. Water stream represents river basin of flowing water together with shores, namely the dent in the ground that is easily observable, with water that continuously or periodically flows in it. (Law on Waters, “Official Gazette of Republic of Montenegro”, no. 27/07).

Water streams are divided in three groups: Savnik group, Berane group and Plav group. Savnik-first group consists of four, and Berane-second and Plav-third group each consists of three water streams.

List of water streams in question, their catchments areas, as well as preliminary data on theoretical capacity and annual production of electrical energy on water streams, is given in Table 1.

Table 1. List of water streams for concessionary activities

Ref.	Water stream	Catchment Area	P [MW]	E [GWh]
1	Vrbnica	Piva lake	2,8	12,7
2	Bukovica	Komarnica	3,2	14,2
3	Tušina		0,5	2,5
4	Bijela		1,4	5,4
G1	Savnik group		7,9	34,8
5	Trepačka river	Lim (Berane municipality)	2,9	12,1
6	Kraštica		0,8	3,1
7	Murinska river	Lim (Plav municipality)	2,1	8,8
G2	Berane group		5,8	24,0
8	Velička river	Lim (Plav municipality)	0,3	1,5
9	Komarača		2,6	10,8
10	Đurička river with tributaries		1,4	6,0
G3	Plav group		4,3	18,3

Table 1 shows:

- P – theoretical capacity on water stream;
- E – theoretical annual production of electrical energy on water stream;
- P_{Gn} – total installed capacity in the water stream group;
- E_{Gn} – total annual production of electrical energy for each of groups of water streams; and
- n – refers to first, second or third group of water streams.

Data on estimated capacity and annual production of electrical energy are obtained from the following studies:

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- *Hydrologic Elaborate for profiles of small (mini, micro) hydropower plants (sHPP) on tributaries of main catchments areas in Montenegro*, Sector for Hydrology, Hydrometeorological Institute of Montenegro (HMZCG), 2007, and
- *Preliminary (rough, approximate, orientational) Elaborate of hydro potential on tributaries of main catchments areas of Piva and Lim, for profiles of small (mini, micro) hydropower plants (sHPP) on tributaries of main catchments areas in Montenegro*, Sector for Hydrology, Hydrometeorological Institute of Montenegro (HMZCG), 2008.

Hydrologic elaborate is done based on one-year long research and hydrometric measurements. Hydrometric measurements are done on previously determined locations on water streams, hereinafter referred to as micro-locations. Based on these measurements flow curves are determined, as well as average daily flow for observed period, as well as duration curves of average daily flows. Furthermore, duration and frequency curves are determined for micro-locations, as well as the corrections of duration and frequency curves in comparison with the long history of hydrologic measuring in Montenegro. More details regarding water streams in questions, with maps outlining catchments areas, physical and geographic detailed maps on catchments, as well as uzdužnim presjecima of water streams are given in the *Hydrologic Elaborate for profiles of small (mini, micro) hydropower plants (sHPP) on tributaries of main catchments areas in Montenegro*.

Based on the elaborate hydrological data, a preliminary study of hydro potential on water streams has been assembled. Potential micro-locations have been chosen, where given water streams can be techno-economically used, and based on this selection, installed capacity of facilities was proposed, as well as the potential annual production of electrical energy was calculated. Based on the given research and measuring process, Table 1 contains preliminary estimate of the installed capacity and annual production of electrical energy. Both studies represent an integral part of the Tender documentation.

Locations on which concessionary activities will be conducted are hydrologically researched water streams by the HMZCG, for which hydrologic elaborate and analysis were done for micro-locations, again chosen by the HMZCG. Micro-locations for the concessionary activities can be on other locations along the water stream, depending on the recommendation from the Preliminary/conceptual design on optimal techno-economic use of the water stream, fully taking into consideration spatial and environmental limitations. Clearly defined borders of locations within which concessionary activities are foreseen, with length and gross drop of the water stream are given in Table 2.

Table 2. Waterstreams or locations on which concessionary activities will be conducted

Ref.	Water stream	Length [km]	Gross drop of water stream [m]	Height of spring [masl]	Height of estuary [masl]
1	Vrbnica	8,50	535	1215	680
2	Bukovica	20,10	490	1440	950
3	Tušina	16,30	630	1580	950
4	Bijela	9,20	217	1050	833
5	Trepačka river	14,98	850	1560	710
6	Kraštica	9,60	450	1180	730
7	Murinska river	6,53	810	1640	830
8	Velička river	7,90	1045	1900	855
9	Komarača	4,93	155	1060	905
10	Đurička river with tributaries	8,10	104	1010	906
		7,48	580	1590	1010
		6,63	835	1845	1010

1 Masl= meters above sea level

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Clarification:

- Jasenička and Trokutska river make Đurička river, 1010 masl. Research and hydrometric measuring were done on Trokutska river, consequentially a preliminary study of the hydro potential on that river was done. The location for concessionary activities is Đurička river with tributaries, that is Đurička river (length 8,10 km, between 1010 masl and 906 masl), hydrologically researched Trokutska river (length 7,48 km, between 1590 masl and 1010 masl) and Jasenička (length 6,63 km, between 1845 masl and 1010 masl).

Described studies represent a valuable initial step of hydrological requirements, as well as foundation for the preparation of technical documentation required in the tender procedure, as well as later, during the preparation of technical documentation for the realization of the Concessionary Agreement.

Hydrologic data represents starting base for development and planning of small hydropower plants construction on selected water streams, but they are not the guarantee to the investor, based on which they may have a right to demand any damage coverage, not even in the case when HMZCG data are not sufficient or adequate; qualified bidders accept entire risk when submitting a bid.

This research does not exclude the possibility and/or need of the bidder to conduct, or that he has already conducted own research. If the bid estimates that HMZCG hydrological findings and data are insufficient or inadequate from the point of view of the optimal acceptable energetic, environmental and economic use of the water stream, the bidder has the possibility to submit the results of his own research, based on which he developed a Preliminary/conceptual design. In effect, if the bidder, based on his own research results, determines that, in order to optimally exploit given water stream, can construct sHPP of different capacity (smaller or bigger) with a different annual production of electrical energy from the data in Table 1, the bidder may submit such Preliminary/conceptual design. Report on own research submitted by the bidder is to be prepared by the institution authorized to perform hydrologic research, or to be evaluated and confirmed by such institution.

3. Basic parameters for the assessment of the economic feasibility of the investment

Economic-financial analyses, as well as financial means required for the construction of new sHPP are outlined in the *Strategy of Development of Small Hydropower Plants in Montenegro*. This economic-financial analysis is also given here, taking into account given water streams and the location for the concessionary activities. The following assumptions were used in this economic-financial analysis:

- a. Average specific investment for complete construction of sHPP facility is 1 500 EUR/kW (equal for all facilities);
- b. Additional investments in the infrastructure and connection of the sHPP to the distribution network are not taken into account;
- c. Time required for design and planning, as well as construction of sHPP facility is not taken into account;
- d. Financing of the project is coming from debt in form of loan or other mechanisms offered by financial institutions in the amount of 70% of total investment;
- e. Maturity of the loan is 10 years;
- f. Interest rate is 8% annually;
- g. Inflation rate is 5 %;
- h. Annual O&M costs are 4% of the total investment;
- i. Purchase price of the electrical energy produced in sHPP is fixed in the period of concessionary activity and amounts to 7,93 c€/kWh (Chapter 12);
- j. Techno-economic exploitation is 30 years;

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- k. Guaranteed flow minimum downstream from the location is not taken into account water intake; and
- l. Time of exploitation of maximum capacity is ratio of estimated production of electrical energy and installed capacity from Table 1.

Aside from the given assumptions, preliminary results of economic-financial analysis for each water stream are given in Table 3. Analysis is performed using *Reetscreen International software* for green (clean) energy projects. From Table 3 it is observable that the Internal rate of return for projected period for techno-economic use of sHPP is between 16,1 % do 21,7 %. Furthermore, payback period on investment from the date of revenue generation is from 4,4 to 6,0 years. Taking into account the duration of concession of 30 years, based on the given economic-financial analysis, it is considered profitable to invest in construction of sHPP facilities. Also, it is considered that an attractive economic environment exists to construct sHPP in Montenegro and it is expected that investor also recognize the given fact on the upcoming tender.

However, numerous assumption are included in the economic-financial analysis: annual working hours at maximum capacity, calculated from the hydrologic data and research done by the HMZCG, is considered to be relatively high for Montenegrin water streams, also the fixed price for the purchase of electrical energy from sHPP is assumed, concessionary fee and other fees are not taken into account, as well as the guaranteed flow minimum downstream from the location water intake, and so on. Bidders are granted the concession on 30 years for the exploitation of the water stream, so as to increase the attractiveness of the investment in the construction of sHPP, but at the same time the bidders are expected to invest in facilities and infrastructure significant to the environment of the given water stream, which also represents one of the criteria used during the bid evaluation process and the selection of the most favorable bid.

Given the current purchase price of the electrical energy produced in sHPP in the amount of 7,93 c€/kWh and estimated annual production of electrical energy, total amount of annual revenues on all ten water streams could be 6,114 million €.

4. Prequalification

Two-phased concession award process is initiated when the Public announcement of prequalification is published. Public announcement is published for the groups of water streams given in Table 1. The bidder submits the application, in which is clearly stated which groups of water streams he is applying for. The application may be submitted for two out of three groups of water streams at maximum, which allows for the implementation of the competitiveness concept in the process, that is, the environment is being created to accommodate competition among great number of bidders in the concession award process.

Tender Commission evaluates and ranks applications and accepts or rejects applications based on previously determined prequalification criteria. Status of the qualified bidder is granted to bidders who receive 85 (eighty-five) or more points in the prequalification phase for individual groups of water streams. If total of five bidders on each individual group of water streams does not acquire given number of points, the bidder whose application is among five first-ranked applications is granted the status of the qualified bidder on the given group of water streams.

Hereinafter are defined more precisely requirements to be fulfilled, as well as evidence to be submitted so as to render the potential bidder eligible for the participation in the public bidding process, as well as the list of documentation to be submitted in the prequalification phase.

4.1. Public announcement of prequalification

Public announcement of prequalification is open for domestic and foreign companies or other legal entities, entrepreneurs or other individuals, consortia or other forms of business associations that in regards to the registration, working experience and financial capacity fulfil the conditions and requirements prescribed by the law. Public announcement describes the public bidding process, required documentation to be submitted so as to render the potential bidder eligible for the

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participation in the public bidding process, defined prequalification criteria, as well as the obligatory evidence. Deadline for the submission of application in the prequalification phase is 30 (thirty) days from the date the Public announcement is published.

Publishing of the Public announcement of prequalification

Public announcement of prequalification is published in the “Official Gazette of Montenegro”, daily newspaper “Pobjeda”, international financial magazine “Financial Times” (notice), as well as on the official web page of the authorized institution, www.minekon.vlada.cg.yu and on the web page for renewable energy sources in Montenegro, www.oie-cg.me.

Submission of application

Bidder submits the application to the Archive of the Ministry of Economy of Montenegro, , Rimski trg 46, Podgorica, in sealed envelope with a complete name of the bidder and with the subject: “*for Public announcement of prequalification for concession award to exploit water streams for construction of small hydropower plants in Montenegro - confidential*”. Deadline for submission of applications is xx.xx.2009. by 12,00 o'clock.

Bidder has the right, based on a written request, to withdraw the application by the expiry date of the deadline for submission of application, at the latest. Application that is submitted after the deadline is considered void, and will not be taken into consideration and will be returned to the bidder unopened.

Opening of applications

Public opening of applications will occur at the premises of the Ministry of Economy of Montenegro, Rimski trg 46, Podgorica, on the day xx.xx.2009., starting at 14,00 o'clock. Bidders, or their authorized representatives have the right to attend the public opening of applications. Applications are opened in the order of their receipt in the Archive of the authorized institution. The Tender Commission will do opening of applications. After the public opening of applications is concluded, Tender Commission will determine whether the bidder has, in accordance with the Public announcement:

- Submitted the application in a requested manner;
- Submitted as an integral part of the application all requested documentation;
- Duly signed all documentation from the application;
- Submitted a bank guarantee for application.

Application that does not fulfil the requirements from the previous paragraph will be rejected as invalid and will not be taken into consideration any further. Tender Commission prepares Minutes on Opening of Applications, which is signed by the President and members of the Tender Commission, as well as present authorized representatives of bidders. Tender Commission is required to, within three days from the day of completion of the public opening of applications, send to bidders Minutes on Opening of Applications. Tender Commission conducts evaluation and certificate of the eligibility of applications as well as their assessment without the presence of authorized representatives of bidders.

Change in Terms and Conditions of Public announcement and Decision-making

Changes and/or amendments to the Public announcement of prequalification must be published in a same manner as the original text of the Public announcement, with the extension of the application submission deadline for the period that has passed from the day the Public announcement is published.

Authorized institution retains the right to amend, announce void or unsuccessful the Public announcement, as well as the right not to award concession to any bidder for group/s of water streams or individual water streams for the construction of sHPP.

Use of language

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Public announcement is published on Montenegrin and English language. Applications are submitted on Montenegrin language. If the documentation from the application is submitted on any foreign language, bidder is required to submitted certified translation to Montenegrin language. In case of the trial, certified translation will be used for the interpretation of information and evidence.

Additional information and contact persons

Interested investors may, in a written form, request additional information or clarifications regarding the preparation of the application and the bid, at least five days before the deadline for the submission of applications. Questions and answers will be published on the official web page of the authorized institution: www.minekon.vlada.cg.yu. Contact persons authorized to provide relevant information are:

Danilo Božović	+382 (0)20 482 207	
Anton Ljucović	+382 (0)20 482 295	- telephone
	mhe.koncesije@gov.me	- email

**KONCESIONI AKT ZA DAVANJE KONCESIJA ZA KORIŠĆENJE VODOTOKA ZA
IZGRADNJU MALIH HIDROELEKTRANA U CRNOJ GORI**

Table 3. Preliminary economic-financial feasibility analysis of the construction of sHPP on given water streams

Ref	Water stream	P [MW]	E [GWh]	t _k [h]	C _k [-]	V _I [€]	O _t [€]	Tr _{god} [€]	Pr _{god} [€]	IRR (%)	t _{pov} (god)
1	Vrbnica	2,8	12,7	4535,71	0,5250	4.200.000	168.000	606.147	1.020.967	19,4	4,9
2	Bukovica	3,2	14,2	4437,50	0,5136	4.800.000	192.000	692.739	1.141.679	19,0	5,1
3	Tušina	0,5	2,5	5000,00	0,5787	750.000	30.000	108.240	201.002	21,7	4,4
4	Bijela	1,4	5,4	3857,14	0,4464	2.100.000	84.000	303.073	434.140	16,1	6,0
5	Trepačka	2,9	12,1	4172,41	0,4829	4.350.000	174.000	627.795	972.820	17,6	5,4
6	Kraštica	0,8	3,1	3875,00	0,4485	1.200.000	48.000	173.185	249.247	16,2	6,0
7	Murinska	2,1	8,8	4190,48	0,4850	3.150.000	126.000	454.610	707.519	17,7	5,4
8	Velička	0,3	1,5	5000,00	0,5787	450.000	18.000	64.944	120.601	21,7	4,4
9	Komarača	2,6	10,8	4153,85	0,4808	3.900.000	156.000	562.851	868.391	17,6	5,5
10	Đurička	1,4	6,0	4285,71	0,4960	2.100.000	84.000	303.073	482.377	18,2	5,3

Table 3 shows:

- P [MW] - theoretical capacity from Table 1;
- E [GWh] - annual production of electrical energy on water streams from Table 1;
- t_k [h] - annual working hours at the maximum capacity;
- C_k [-] - coefficient of the exploitation of the facility at the maximum capacity;
- V_I [€] - investment;
- O_t [€] - operation and maintenance costs;
- Tr_{yr} [€] - annual expenditures;
- Pr_{yr} [€] - annual revenue;
- IRR [%] - internal rate of return
- t_{pov} [yr] - payback period.

4.2. Prequalification criteria for evaluation of applications

In the prequalification phase application are evaluated and ranked based on the prequalification criteria for evaluation of applications. Ranking of applications is done for each group of water streams, that is, three rankings of bidders are formed.

Prequalification criteria for evaluation of applications are: technical capacity, financial capacity and participation on the Montenegrin market. Prequalification criteria are given in the Table 4. For each prequalification criteria there are sub-criteria with an assigned number of evaluation points.

Table 4. Prequalification criteria for evaluation of applications

Ref.	Criteria/ Sub-criteria	No. of points
P.1.	Technical capacity	0-45
P.1.1.	Experience in the design and planning and construction of sHPP	0-15
P.1.2.	Experience in the management of sHPP	0-5
P.1.3.	Capacity of constructed hydro-energy facilities	0-15
P.1.4.	Capacity of managed hydro-energy facilities	0-10
P.2.	Financial capacity	0-30
P.3.	Participation on Montenegrin market	0-25
P.3.1.	Positive business operations of the firm registered in Montenegro	0-15
P.3.2.	Experience in construction of complex objects and design and planning of hydropower plants in Montenegro	0-10

Note: In case two or more applications have equal number of points, there will be no further ranking, and bidders who submitted such applications will be treated in equal way. This means that is two or more applications have equal number of points and share one place within five first-ranked positions, such bidders will be granted the status of qualified bidder in the same group of water streams.

Description of the evaluation in prequalification

P.1. Technical capacity

P.1.1. Experience in the design and planning and construction of sHPP

Number of points in this sub-criterion will be awarded as a sum of Experience in the design and planning and experience in construction of sHPP. For each constructed sHPP, bidder as the investor of construction will be awarded 2 points. If the number of constructed sHPP by the bidder is more than 7, a maximum number of points to be awarded is 15. Furthermore, if the bidder was the carrier of the project to design technical documentation used to construct sHPP or the bidder directly realized the construction of sHPP object, the bidder will be awarded 1 point for each object. The number of points awarded for the experience in design and planning or direct construction of sHPP object is limited to 5 points. The number of points that can be awarded for each constructed sHPP is 2 points.

P.1.2. Experience in the management of sHPP

Number of points corresponds to the number of sHPP that the bidder managed or manages, and if this number is over 5, a maximum of 5 points will be awarded.

P.1.3. Capacity of constructed hydro-energy facilities

Methodology for the calculation of the number of points to be awarded for capacity of constructed hydro-energy facilities by the bidder as the investor (P_i [MW]) is given in Table 5,

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Table 5. Number of points for the hydro-energy facility capacity

Constructed hydro-energy capacity	Number of points
$P_i < 0,2$	0
$0,2 \leq P_i \leq f_i \times P_{Gn}$	
$P_i > f_i \times P_{Gn}$	15

where P_{Gn} [MW] is the sum of capacities of individual water streams in the group of water streams n from Table 2, for which the application is submitted. Factor f_i for big hydropower plants is 20, and for sHPP is 4.

P.1.4. Capacity of managed hydro-energy facilities

Methodology for the calculation of the number of points to be awarded for capacity of managed hydro-energy facilities by the bidder as the investor (P_u [MW]) is given in Table 6,

Table 6. Number of points for the hydro-energy facility capacity management

Managed hydro-energy capacity	Number of points
$P_u < 0,2$	0
$0,2 \leq P_u \leq f_u \times P_{Gn}$	$P_n - 0.2$
$P_u > f_u \times P_{Gn}$	10

where P_{Gn} [MW] is the sum of capacities of individual water streams in the group of water streams n from Table 2, for which the application is submitted. Factor f_u for big hydropower plants is 15, and for sHPP is 3.

This criterion takes into account hydropower plants that became operational after 01.01.1981. or the ones which were completely reconstructed in the given period.

P.2. Financial capacity

Number of evaluation points for the financial capacity of the bidder is determined by the average value of total gross revenue of the bidder in the last three years (V_{BP} [mil €]). Methodology for the calculation of the number of points in this criterion is defined in the Table 7.,

Table 7. Number of points for financial capacity of the bidder

Gross revenue	Number of points
$V_{BP} < 1,0$	0
$1,0 \leq V_{BP} \leq 2 \times P_{Gn}$	
$V_{BP} > 2 \times P_{Gn}$	30

where P_{Gn} [MW] is the sum of capacities of individual water streams in the group of water streams n from Table 2, for which the application is submitted.

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P.3. Participation on Montenegrin market

P.3.1. Positive business operations of the firm registered in Montenegro

In this sub-criterion, the points are awarded to the bidder who has already or is still participating on the Montenegrin market. Positive business operations on the Montenegrin market are evaluated for the last three years. If the bidder had positive business operations for one, two, or three business years in the last three, the bidder will be awarded 5, 10, or maximum 15 points respectively. Minimum profit for each business year must be at least 1000 €.

P.3.2. Experience in construction of complex objects and design and planning of hydropower plants in Montenegro

Number of points in this sub-criterion corresponds to the number of constructed complex objects in Montenegro, and if this number is greater than 10, a maximum number of points, 10, will be awarded.

Under the term “complex object” are considered objects with construction costs over 500.000 €, such as:

Objects for production of electrical energy from renewable energy sources, electro-energetic objects, industrial objects, water management objects, water supply systems, sewage and drainage systems, as well as other infrastructural objects, as well as roads, ports, airports, railways, bridges, tunnels, residential-commercial buildings of smaller floor areas, but over 2000 m².

Points are awarded to applications whose bidder was investor or the main contractor of civil works on complex objects defined in the previous paragraph. Furthermore, the maximum of points will be awarded to the applications whose bidder was an investor or the main contractor of civil works for the object, whose construction costs were over 20 mil €.

Also, in this sub-criterion the experience in the design and planning of construction of hydropower plants on the territory of Montenegro is being evaluated. Every preliminary/conceptual design is awarded 1 point. Only revised preliminary/conceptual design developed after 01.01.1981. is being evaluated. Number of points assigned to the experience in the design and planning of hydropower plants in Montenegro is limited to 5.

Note: Number of points in each criterion and sub-criterion in the prequalification phase is rounded to the first decimal point.

Application of the consortium or other form of business association consisting of domestic and/or foreign legal entities and/or individuals is evaluated in a manner that technical capability, financial capability, and participation on the Montenegrin market of all members of the consortium are added up and this joint capacity of the bidder is evaluated as outlined in this chapter and in the following example.

Example: Experience in the design and planning and construction of sHPP of a consortium, consisting of three members, Member 1, Member 2 and Member 3, is being evaluated. If we assume that Member 1 was the investor in the construction of two sHPP, Member 1 and Member 2 were carriers of the project in design and development of technical documentation for two different and realized sHPP, and that Member 3 directly constructed one sHPP, as given in Table 8, first the experiences of all members of consortium are being added up, and the total experience of the consortium bidder is seen on line 5, Table 8. Such bidder was an investor on two, carried out two, and directly constructed one sHPP. After this evaluation step, the bidder for this application in this sub-criterion receives 4 points as the investor, 2 points as the carrier of the project and 1 point as the contractor. Total number of points awarded in this sub-criterion is 7.

Table 8. Example of the consortium evaluation comprising 3 members

1		Investor	Carrier	Contractor
2	Member 1	2	1	0
3	Member 2	0	1	

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4	Member 3	0	0	1
5	Sum of members' experiences	2	2	1
6	Number of points for consortium	2×2=4	2×1=2	1×1=1
7	Total P.1.1.	4+2+1=7		

4.3. Eligibility criteria of bidders and list of required documentation

Right to participate in the Public bidding process for concession award for exploitation of water streams for construction of sHPP has any domestic or foreign company or other legal entity, entrepreneur or individual, consortium or other form of business association that is qualified to be an eligible bidder.

Eligibility/ineligibility of the bidder

Pursuant to Article 23 of the Law on Concessions, ineligible to participate in the public bidding process for concession award are:

- companies, other legal entities and entrepreneurs against whom the insolvency or liquidation process is initiated, except for the companies undergoing reorganization procedure in accordance with the law overseeing the insolvency of companies;
- companies, other legal entities, entrepreneurs and individuals who were indicted by the judiciary decision for the criminal offence carried out while performing professional function; and
- companies, other legal entities, entrepreneurs and individuals who have neizmirene tax obligations and other obligations stemming from the penalties from felony or offense procedure in the period of at least three years before the publication of the Public announcement.

Based on given provisions, each bidder, in regards to the proving of the eligibility must submit the following evidence:

- evidence that against company, other legal entity and entrepreneur the insolvency or liquidation process has not been initiated - evidence/certificate issued by the Commercial Court;
- evidence that company, other legal entity, entrepreneur and individual has not been indicted by the judiciary decision for the criminal offence carried out while performing professional function - evidence/certificate issued by the Commercial Court for companies, other legal entities and entrepreneurs and for individuals issued by the authorized Primary Court;
- evidence that company, other legal entity, entrepreneur and individual has no outstanding balances as a taxpayer – evidence/certificate by a tax authority of the administrative entity outlining that all taxpayer obligations are covered;
- evidence that company, other legal entity, entrepreneur and individual does not have outstanding balances based on declared penalties in obligations stemming from the penalties from felony or offense procedure in the period of at least three years before the Public announcement is published:
 - a) bidder as a company, other legal entity or entrepreneur:
 - evidence/certificate from the Central Registry of the Commercial Court proving that the bidder is not in its penalty records;

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- evidence/certificate of district office for offenses where the headquarters of the bidder are, proving that the bidder does not have outstanding balances based on declared penalties in obligations stemming from the penalties from offense procedure;
- b) bidder as an individual:
 - evidence/certificate from the Primary Court proving that the bidder does not have outstanding balances based on declared penalties in obligations stemming from the penalties from felony procedure;
 - evidence/certificate of the authority in the place of residence of the bidder proving that the bidder does not have outstanding balances based on declared penalties in obligations stemming from the penalties from offense procedure.

Abovementioned evidence shall not be older than 90 (ninety) days from the day the Public announcement is published.

If the country where the bidder has its headquarters does not issue such evidence, these evidence may be replaced by the official statement of the bidder under criminal and material responsibility, and if the country where the headquarters of the bidder are situated does not have any legal provisions regulating issuance of official statements under criminal and material responsibility, the given evidence may be replaced by the official statement issued in authorized judiciary institution, administrative institution or certified notary.

Other required documentation

Aside from the mentioned obligatory provisions and conditions outlined in previous chapter, each bidder is to submit the following documentation:

- certificate from judiciary, professional or commercial registry of the country where the bidder has its headquarters;
- bank guarantee of application in the amount of 10.000 €, which will be activated in case the qualified bidder does not submit any bid for group/s of water streams for which the status of qualified bidder was granted;
- evidence that payments and disbursements to the bidder were not frozen- relevant bank certificates, confirmation or official statement on the financial eligibility of the bank whose client is a legal entity; and
- evidence on financial reporting- accounting and audit report and financial statements showing the financial capacity of the bidder – Balance sheet and income statement, that is the report of the certified auditor for legal entities required by the law, for the last three year, or from the day of the registration of the legal entity if the latter occurred later.

Integral part of the application consists of annexes that will be published on the official web site of the authorized authority. The authorized representative of the bidder must sign annexes. Annexes to be filled-in and submitted in the prequalification are the following:

Annex P.1 Basic information about the bidder

Annex P.2 Choice of group/s of water streams

Annex P.3 Joint participation

Annex P.4 Technical capacity

Annex P.5 Financial capacity

Annex P.6 Positive business operations on Montenegrin market

Annex P.7 Experience in the construction of complex objects and design and planning of hydropower plants in Montenegro

With the purpose of proving the data submitted in annexes (Annex P.3, P.4, P.5, P.6 and P.7), the bidder is to submit evidence that is clear, precise and unambiguous.

Based on the request of the Tender Commission, the bidder is required to submit any clarification of the application, with the purpose of elucidation of ambiguous parts of the application, which means that the bidder may not change or amend the application in this way.

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Joint participation

Bidder may participate in the public concession award process in consortium or other form of business association (hereinafter referred to as: consortium), with the obligation to submit together with Annex P.3 Consortium Agreement, which explicitly predicts:

- that all members of the consortium are jointly responsible for the execution of the agreement, in accordance with agreement's provisions;
- that the roles and responsibilities of each member of consortium are clearly defined;
- that one of the members of consortium will be selected and authorized to, in the name of each individual member and all members of consortium, accept rights and obligations and follow instructions; and
- that the execution of the entire agreement, including payment procedure, will be conducted solely with the authorized member of the consortium.

Bidder who participated in the concession award process as a consortium, and who was granted a concession as a consortium, based on the evaluation criteria comprising the concession award process, may not change the structure and composition of members of the consortium without a prior approval from the concession grantor. This means that during the founding and registration process of the company, founders of the company in question must be members of consortium and must jointly be commercially active two years after the sHPP became operational. If not, the concession grantor may one-sidedly terminate the Concession Agreement.

Bidder who submits the application within the framework of the consortium is required to submit all evidence proving the capacity and capability, as well as other documentation referred to in this chapter, for each of members of the consortium individually.

5. Qualification

After the prequalification phase has been completed, the next step is the submission of the Concessionary Act to qualified bidders, as well as the purchase of the Tender documentation by the qualified bidders. Qualified bidders submit bids for individual water streams from groups of water streams for which they were granted the status of the qualified bidder within the given deadline. Deadline for bid submission in the qualification phase is 90 (ninety) days). Bids in the qualification phase may be submitted for one or more water streams within the group of water streams for which he received the status of the qualified bidder. Each bid, aside from the required documentation, contains Preliminary/conceptual design for techno-economic use of the water-energetic potential of the water stream (or system of water streams) for production of electrical energy from sHPP.

Preliminary/conceptual design in the bid will be evaluated by the Tender Commission. The result of the evaluation is the acceptance or the rejection of the proposed Preliminary/conceptual design from the energy, environment and economics framework. Accepted Preliminary/conceptual design from the bid is the prerequisite for further evaluation of the bid. On the other hand, if the Preliminary/conceptual design from the bid was rejected for not fulfilling the requirements from any of the given frameworks, a complete bid will be rejected and will not be evaluated.

Ranking list of bids in the qualification phase is formed for each water stream individually based on the criteria for selection of the most favorable bid. Ranking lists will be published on the official web site of the authorized institution. Tender Commission submits to the authorized institution the ranking list of the bidders, report on the conducted process, with the rationale supporting the ranking list, minutes from the proceedings of evaluation of bids, which must contain information on the compliance with the given criteria by the concessionaire, and basic elements of

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bids in accordance with the criteria used for the evaluation of bids. Qualified bidders have the right to submit objection to the ranking list of bidders within 15 days from the day the list is published.

5.1. Tender documentation

Required information, requirements for concession award, as well as regulated rights and obligations of bidders and concessionaires are defined by the Tender documentation. Tender documentation contains:

- Instructions for bid preparation;
- *Hydrologic Elaborate for profiles of small (mini, micro) hydropower plants (sHPP) on tributaries of main catchments areas in Montenegro*, Sector for Hydrology, Hydrometeorological Institute of Montenegro (HMZCG), 2007, and
- *Preliminary (rough, approximate, orientational) Elaborate of hydro potential on tributaries of main catchments areas of Piva and Lim, for profiles of small (mini, micro) hydropower plants (sHPP) on tributaries of main catchments areas in Montenegro*, Sector for Hydrology, Hydrometeorological Institute of Montenegro (HMZCG), 2008.

Authorized institution retains the right to change and/or amend before the deadline for the submission of bids in the qualification phase, Tender documentation. Changes and/or amendments to the Tender documentation are published in the same manner as the Tender documentation itself.

5.2. Required documentation

In the qualification phase, qualified bidder, on given water streams from the group of water streams for which they were granted the status of the qualified bidder, should based on the conducted research, prepare requested technical documentation with professionalism, attentiveness and consideration as a part of the bid, namely the Preliminary/conceptual design.

Preliminary/conceptual design

Based on the available information and data regarding the water stream, research and hydrometric measuring of the hydro-energetic potential conducted by the HMZCG and/or in own arrangement, qualified bidders will develop a concept for the construction of the sHPP facility on the given water stream outlined in the Preliminary/conceptual design. Analysis of the hydro-potential on the given water stream should be the basis for the development of the Preliminary/conceptual design. Hydrologic Elaborate of the water stream by the HMZCG should serve as the starting base for the preparation of the technical documentation, but presented research findings and hydrometric measurements do not exclude the possibility that a qualified bidder may use own research and hydrometric measuring on a given water stream. Research must be carried out with precision, in actuality and superior quality based on the actual available hydro-potential of the given water stream for which the qualified bidder prepares the technical documentation in the qualification phase. Own research (geologic, hydrologic, hydro-geologic, energetic, environmental, geodesic, sociologic, and the like) should be carried out by a certified institution in this domain or to be evaluated by such an institution. Qualified bidder, based on the existing documentation and/or own research, chooses potential locations for sHPP facilities. Report on conducted research shows findings on the water stream for specific locations of sHPP for techno-economic use of water-energetic potential of the water stream for construction of sHPP.

Based on the research, qualified bidder fills in the annex designed for the Preliminary/conceptual design in accordance with the Instructions for Bid Preparation. Preliminary/conceptual design must contain a high-quality technical concept proposal of the optimal energy use of the water stream on which all micro-locations for sHPP facilities are outlined on a give water stream, complying fully with the existing spatial and environmental limitations. Based on the concept of water stream exploitation, Preliminary/conceptual design should outline real and potential annual production of electrical energy, as well as installed capacity of all sHPP on

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a given water streams, which represent criteria for the selection of the most favorable bid. Furthermore, the amount of the concessionary fee is the most valuable criterion for bid evaluation, which implies that this fee is determined based on the clearly defined and superiorly elaborated Preliminary/conceptual design. Selection of the Preliminary/conceptual design, as well as technical parameters used in the qualification phase (annual production of electrical energy and installed capacity), draw out the responsibility and risk of a qualified bidder, since selection of unacceptable and Preliminary/conceptual design of poor quality may lead to its rejection, namely hinder the possibility of concession award on a given water stream. In case findings from the research on water-energetic potential of the water stream are not shown in real terms, even if Preliminary/conceptual design of a qualified bidder was proved acceptable and of high-quality, this may cause rejection of the Preliminary/conceptual design by Tender Commission. Accepted Preliminary/conceptual design by Tender Commission represents a basis for development of technical documentation necessary for the I realization phase of the Concession Agreement.

List of other documentation

Bidder is required to submit together with the bid a bank guaranteed of the bid in the amount of 100.000 € for the period until the qualification phase is completed, that is for the period determined in the Public announcement.

Integral part of the bid are the filled-in annexes, which can be found in the Tender documentation, as well as published on the official web site of the authorized institution. The authorized representative of the qualified bidder must sign annexes. Annexes submitted in the qualification phase are the following:

- Annex K.1 Bank guarantee of the bid
- Annex K.2 Amount of the concessionary fee
- Annex K.3 Duration of the concession
- Annex K.4 Technical parameters from the Preliminary/conceptual design
- Annex K.5 Accessibility to the land for the purpose of conducting concessionary activities
- Annex K.6 Preliminary/conceptual design

With the purpose of proving the information entered in annexes (Annex K.4, K.5 and K.6), qualified bidder the bidder is to submit evidence that is clear, precise and unambiguous.

Based on the request of the Tender Commission, the bidder is required to submit any clarification of the application, with the purpose of elucidation of ambiguous parts of the application, which means that the bidder may not change or amend the application in this way.

5.3. Criteria for selection of the most favorable bid

Qualified bidders submit bids for individual water streams from groups of water streams for which they were granted the status of qualified bidder. Bids will be evaluated and ranked based on the criteria for selection of the most favourable bid, that is the criteria in the qualification phase. Ranking list of bidders is formed for each water stream individually.

The bid must contain the Preliminary/conceptual design, with the contents defined in the Tender documentation. Qualified bidder may develop a Preliminary/conceptual design for several water streams from the group for which the status of the qualified bidder was granted. IN this case, such bid must be submitted for each water stream individually including technical parameters (production of electrical energy and installed capacity) for each water stream from the system of water streams. If for any water stream, one bid for individual water stream is ranked better than the bid with several water streams, the bid containing a Preliminary/conceptual design for several water streams will be rejected from the rankings within a given group

Qualification criteria for evaluation and ranking of bids are: amount of the concessionary fee, duration of the concession, technical parameters from the Preliminary/conceptual design,

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multifunctional solutions and accessibility to the land for the purpose of conducting concessionary activities.

Table 9. Criteria for evaluation and selection of bids in the qualification phase

Ref.	Criteria/ Sub-criteria	Number of points
K.1.	Amount of the concessionary fee	0-45
K.2.	Duration of the concession	0-20
K.3.	Technical parameters from the Preliminary/conceptual design	0-20
K.3.1.	Annual produced energy on the pragu of sHPP	0-15
K.3.2.	Installed capacity of sHPP	0-5
K.4.	Multifunctional solutions	0-10
K.5.	Accessibility to the land for the purpose of conducting concessionary activities	0-5

Description of the evaluation in qualification

K.1 Amount of concessionary fee

Amount of concessionary fee, which represents an integral part of the bid, is determined based on the previous findings and developed Preliminary/conceptual design on a given water stream. The fee is given in GWh on an annual base. Proposed amount of the concessionary fee in GWh will be an integral part of the Concession Agreement and it is a fixed amount given to the concession grantor by a concessionaire. Ratio of a proposed amount of the concessionary fee and planned annual production of electrical energy defines the amount of concessionary fee in percentages. Monetary amount of a concessionary fee is calculated using a current level of purchase price of electrical energy produced in sHPP and this amount will be deposited in the State Budget.

The bid containing the highest amount of the concessionary fee (K_{max} [GWh]) of all qualified bidders will receive maximal 45 points on a given water stream. Other bids will receive the number of points proportional to proposed amount of the concessionary fee (K_p [GWh]) in relation to the highest amount of the concessionary fee proposed on a given water stream as it is outlined in Table 10. Amount of the concessionary fee cannot be lower than 2% of a total planned annual production of electrical energy from the following sub-criterion.

Table 10. Number of points for the amount of concessionary fee

Amount of concessionary fee	Number of points
K_p	$45 \times \frac{K_p}{K_{max}}$

K.2. Duration of the concession

Bid containing the shortest duration of the concession (t_{min} [yr]) of all qualified bidders shall be granted maximal 20 points on a given water stream. Other bids will receive the number of points proportional to ratio of the shortest duration of the concession and bid proposed duration of the concession (t_p [yr]) proposed on a given water stream as it is outlined in Table 11.

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Table 11. Number of points for duration of the concession

Duration of the concession	Number of points
t_p	$20 \times \frac{t_{min}}{t_p}$

K.3. Technical parameters form the Preliminary/conceptual design

Qualified bidder is required to, when submitting a bid, to submit the Preliminary/conceptual design for use of the given water stream for construction of sHPP. Preliminary/conceptual design should be based on previous research and hydrologic findings that represent an integral part of the Tender documentation or design based on bidder's own research. Based on the developed Preliminary/conceptual design, qualified bidders submit technical parameters from proposed Preliminary/conceptual design for sHPP facilities that are also in accordance with the multifunctional concept of exploitation of the water stream. Technical parameters of Preliminary/conceptual design must be optimized with the purpose of obtaining actual potential use of water stream for production of electrical energy in sHPP on a given water stream.

K.3.1. Annual production of electricity on the threshold of the sHPP

Maximum 15 points from this sub-criterion are assigned to the bid with the highest foreseen annual production of electrical energy on the threshold of sHPP (E_{max} [GWh]). Other bids will receive number of points proportional to the annual production of electrical energy on the threshold of sHPP (E_p [GWh]) in relation to the highest annual production of electrical energy on a given water stream, as it is outlined in Table 12. Qualified bidder should foresee a real annual production of electrical energy on the threshold of sHPP that can be produced by using the water-energetic potential of the water stream, except in cases of unfavorable hydrologic conditions.

Table 12. Number of points for the annual production of electrical energy

Annual production of electrical energy	Number of points
E_p	$15 \times \frac{E_p}{E_{max}}$

K.3.2. Installed capacity of sHPP

Maximum 5 points from this sub-criterion will be awarded to the bid with the highest predicted installed capacity of sHPP facilities (P_{max} [MW]) on a given water stream. Other bids will receive number of points proportional to the predicted installed capacity (P_p [MW]) in relation to the highest predicted installed capacity on a given water stream, as it is outlined in Table 13.

Table 13. Number of points for the installed capacity of sHPP

Installed capacity of sHPP	Number of points
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P _p	$5 \times \frac{P_p}{P_{max}}$
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K.4. Multifunctional solutions

Special criterion in bid evaluation process is Multifunctional solutions, which are essential for the surroundings of the given water stream. Multifunctional solutions represent a noteworthy portion of the Preliminary/conceptual design, from the aspect of economic and infrastructural development of a given region. Multifunctional solutions must be synchronized with the technical concept of optimal energetic exploitation of the water stream. The following features will be evaluated:

- Construction of sHPP in full spatial, environmental and aesthetical unison with the surroundings;
- Spatial development in the area surrounding the water stream;
- Roads accessible to the inhabitants and visitors;
- Irrigation and water supply system (inhabitants and/or industry);
- Other commercial objects;
- Objects important for the local tourism development; and
- Facilities for sport and recreation.

Maximum number of points in this criterion is 10. Special expert commission, formed by the Tender Commission, will evaluate proposed multifunctional solutions based in this criterion.

K.5. Accessibility to the land for the purpose of conducting concessionary activities

In this criterion, solved issues regarding ownership of property regarding land-registry lots, on which construction of sHPP is planned, are being evaluated. Accessibility to the land includes the ownership of the land and contract regulating the use of the land for concessionary activities. Maximum number of points will be awarded to the bid with evidence proving a complete clarity and definition of the land and property ownership on all lots assigned for construction of sHPP. For partially defined and solved issues the number of points awarded is proportional to the area of land on which the issues are completely solved in relation to entire area necessary for the construction of all sHPP facilities. Property where the grid connector to the electro-energetic network is placed will not be taken in to evaluation within this criterion.

Note: Number of points in each criterion and sub-criterion in the qualification phase is rounded to the first decimal point.

6. Conducting concessionary activities

Concession Agreement is executed in three phases: Development of technical documentation phase, Construction of sHPP facilities phase, and Techno-economic exploitation of hydro-energetic potential of the water stream for production of electrical energy from sHPP. Realization phases of concession and duration of each individual phase are outlined in Table 14. Techno-economic exploitation of hydro-energetic potential of the water stream for production of electrical energy from sHPP phase is for 30 days. After phase III of Concession Agreement is completed, the entire hydroenergetic sHPP facility with adjoining objects will be transferred into the ownership of the country of Montenegro in proper functioning state.

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Table 14. . Realization phases of Concession Agreement and duration of each individual phase for exploitation of hydro-energetic potential of the water stream for production of electrical energy from sHPP

PHASE	DESCRIPTION OF PHASE	DURATION
I	Development of technical documentation	1 year
II	Construction of sHPP facilities	2 years
III	Techno-economic exploitation of hydro-energetic potential of the water stream for production of electrical energy from sHPP	Up to 30 years

6.1. Realization phases of Concession Agreement

I PHASE – Development of technical documentation

I (first) phase comprises of preparation of technical project documentation, that is concept project and main project. Technical documentation represents elaboration of the accepted Preliminary/conceptual design that was submitted as an integral part of the bid in the qualification phase.

Main task of the concessionaire in this phase is to develop technical documentation, that is is concept project and main project with details on civil works. Technical documentation must be developed in accordance with the urban-planning requirements, obtained from the section of the spatial-planning documentation. It is the obligation of the ministry authorized to develop spatial-planning documentation or local authority that has the jurisdiction over the given water stream, to develop national or local spatial-planning document in accordance with the accepted Preliminary/conceptual design from the bid.

Within the framework of the I phase, it is necessary to obtain all necessary permits and approvals that are prerequisites for issuance of the civil permit for construction of sHPP facilities. The procedure for the acquirement of the civil permit is specifically as follows:

- Energy Regulatory Agency issues the Authorization for Construction of Generation Facilities;
- Water Administration defines Water Conditions;
- Agency for Environmental Protection adopts Decision on Need for Environmental Assessment;
- EPCG issues requirements for distribution electro-energetic network connection; and
- Authorized institution of public administration issues- makes available urban-planning requirements necessary for preparation of technical documentation.

Based on previously defined requirements, concessionaire fulfils the following and obtains:

- Water Approval of the Water Administration;
- Environmental Approval by the Agency for Environmental Protection based on the Environmental Assessment or Strategic Assessment;
- Electro-energetic Approval issued by the EPCG;
- Approval for distribution electro-energetic network connection;
- Other approvals by authorized bodies in accordance with legal provisions.

I realization phase of Concession Agreement is completed once the civil permit is acquired.

II PHASE – Construction of sHPP facilities

Construction of sHPP facilities is the main task of the concessionaire in this phase. After completing construction, the facility is ready for test phase and eventually technical admission of the facility. With the completion of the construction of sHPP facility, concessionaire acquires:

- Water Permit from Water Administration;

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- Contract for Use of Distribution Network with the EPCG;
- Licence for Production of Electrical Energy by the Energy Regulatory Agency ; and
- Function permit from authorized institution of public administration in charge of the issuance of civil permits.

III PHASE – Techno-economic exploitation of hydro-energetic potential of the water stream for production of electrical energy from sHPP

III phase implies exploitation of sHPP facilities, that is techno-economic exploitation of hydro-energetic potential of the water stream for production of electrical energy from sHPP. Furthermore, if it is foreseen in the Preliminary/conceptual design, the use of water potential for other water management activities of public interest regarding the surroundings of the given water stream is allowed.

After completion of III phase, after the concession validity has expired, pursuant to the Concession Agreement, the entire hydro-energetic sHPP facility with adjoining objects will be transferred into the ownership of the Government of Montenegro in proper functioning state. Before the ownership transfer occurs, concessionaire must revitalize sHPP facilities in accordance with the Concession Agreement. Also, the ownership transfer will occur for the land owned by the concessionaire, as well as termination of the Contract regulating the use of the land for concessionary activities

After expiry of the concession, the concessionaire may sign a new Concession Agreement for the prolongation of concessionary activities on a given water stream in accordance with the law.

6.2. Requirements and obligations of concessionaire

Aside from the mentioned requirements to be fulfilled by the bidder during the public bidding process, the bidder submitting the most favorable bid and whose Preliminary/conceptual design is accepted acquires the right to the concession, that is, becomes the concessionaire. For successful execution of the Concession Agreement, concessionaire is required to fulfil the following requirements and roles, including:

- At the time of concessionary activities provide bank guarantee for contract execution in the amount of 25% of the planned investment for the period of one year;
- Within 60 days from the day the Concession Agreement is signed to establish and register concessionary company with headquarters in Montenegro, unless the concessionaire has already established the company for concessionary activities;
- To exploit the water-energy potential of the water stream in accordance with the accepted Preliminary/conceptual design from the bid;
- Before the works commence solve any property ownership issues on the land to be used for exploration, research, construction, exploitation and maintenance of the sHPP facilities on a given water stream;
- Secure necessary financial means to realize the Agreement;
- Respect designed and agreed capacities and dynamics of the realization of activities related to the concession;
- Rationally use, that is exploit given sHPP objects with the protection of people and property in accordance with the law;
- If concessionaire took part in a public bidding system as a consortium, all members of the consortium participate in Concession Agreement;
- Carry out works applying prescribed and defined energy efficiency measures, measures for environmental protection, cultural heritage and working environment;
- Act in compliance with accepted projects and approved technological methods;
- Report to the authorized institution on some new findings in regards to more efficient and economically viable use of hydro-potential, as well as on own intentions regarding the exploitation, for the purpose of consolidation of the annex of the Concession Agreement.;

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- Entirely comply with measures for environmental protection, outlined and determined in the process of Strategic Environmental Assessment and Environmental Assessment;
- Respect the minimum water stream flow defined by authorized institutions on a given water stream, as well as general repercussions and damages caused by an inadequate water use;
- Invest in research to enhance protection at work, energy efficiency and environmental protection;
- Pay concessionary fee to the state budget of Montenegro, the amount of which is determined in the Concession Agreement, as well as other fees and charges in accordance with the law;
- Along the duration of the concession, every year, by 15. of March the latest, submit to the authorized institution for energy sector and to Energy Regulatory Agency a report on technical and financial results of the concession, in accordance with the Concession Agreement.

6.3. Technical documentation when conducting concessionary activities

Concession Agreement is executed in three phases: Development of technical documentation phase, Construction of sHPP facilities phase, and Techno-economic exploitation of hydro-energetic potential of the water stream for production of electrical energy from sHPP. I (first) phase comprises of preparation of technical project documentation, that is concept project and main project. I realization phase of Concession Agreement is completed once the civil permit is acquired.

Within the framework of the I phase, it is necessary to obtain all necessary permits and approvals that are prerequisites for issuance of the civil permit for construction of sHPP facilities. Review of necessary documentation and approvals with special provisions, issued by an authorized institution and pursuant to Article 91 of Law on Spatial Development and Building of Objects ("OGOM 51/08), and the list of necessary documentation for issuance of civil permit by the Ministry of Spatial Development and Environmental Protection is contained in Table 15.

Table 15. list of necessary documentation for issuance of civil permit by the Ministry of Spatial Development and Environmental Protection of Montenegro

Electroenergetic Approval	EPCG	Energy Law („OGRoM", 39/03), Interim distribution codex („OGRoM" 13/05)
Water Approval	PC Water Supply and Sewage System	Municipal Decision on Construction and Use of Water Supply and Sewage System
Firesafety Approval	Ministry of Internal Affairs and Public Administration Inspectorate for Protection against Fire, Explosion, Hazard and Technical Protection of Objects	Law on Protection and Rescue („OGRoM" 13/07, 05/08)
Environmental Approval	Agency for Environmental Protection	Environmental Law („OGRoM" 12/96, 55/00, 80/05 and „OGOM" 48/08)
Sanitary Approval	Ministry of Health Service for Health and Sanitary Inspection	Law on Sanitary Inspection („OGRoM" 56/92, 27/94 and „OGOM" 14/07)
Transportation Approval	Ministry of Maritime Affairs, Transportation and Telecommunication Or local Secretariat for Transportation	Law on Roads („OGRoM" 42/04 and „OGOM" 21/09)
PTT Approval	Montenegro Telecom	Law on Electronic Communication („OGOM" 50/08")
Water Approval	Water Administration	Law on Waters („OGOM" 27/07)
Agricultural	Ministry of Agriculture, Forestry and Water	Law on Agriculture Land

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Approval	Management or Local Secretariat of Commerce	(„OGRoM" 15/92, 59/92, 27/94)
Geotechnical approval	Ministry of Economy	Law on Geologic Research („OGRoM" 28/93, 27/94, 42/94, 26/07)
Protection of cultural heritage Approval	Ministry of Culture, Sport and Media	Law o Protection of Cultural Heritage („OGRoM" 47/91, 27/94)

So as to acquire the given approvals, it is necessary to obtain the following documents specifically defined for the purpose of concessionary activities and divided on sectors:

- For electro-energetic sector:
 - Energy Regulatory Agency issues the Authorization for Construction of Generation Facilities;
 - Approval for distribution electro-energetic network connection from EPCG, based on previously defined requirements for distribution electro-energetic network connection;
 - Based on the abovementioned Approval, EPCG issues Electro-energetic Approval and the Contract for Use of Network between concessionaire and distribution operator on the location where the sHPP facility is being connected to the electro-energetic network.
- For water management sector:
 - Water Approval of the Water Administration , based on previously defined Water Conditions;
- For environmental sector:
 - Agency for Environmental Protection adopts Decision on Need for Environmental Assessment, followed by Environmental Approval by the Agency for Environmental Protection based on the Environmental Assessment or Strategic Assessment or Statement that the given assessment is not necessary.
- For civil sector:
 - urban-planning documents. It is the obligation of the ministry authorized to develop spatial-planning documentation or local authority that has the jurisdiction over the given water stream, to develop national or local spatial-planning document in accordance with the accepted Preliminary/conceptual design from the bid;
 - effective resolution on ownership right on the land used for concessionary activities from the Real Estate Directorate of Montenegro

Construction of sHPP facilities is the main task of the concessionaire in II phase. After completing construction, the facility is ready for test phase and eventually technical admission of the facility. With the completion of the construction of sHPP facility, concessionaire acquires:

- Water Permit from Water Administration;
- Contract for Use of Distribution Network with the EPCG;
- Licence for Production of Electrical Energy by the Energy Regulatory Agency
- Function permit from authorized institution of public administration in charge of the issuance of civil permits.

7. Duration of Concession

Duration of concession for techno-economic exploitation of the water-energy potential of water stream with the purpose of production of electricity energy is 30 years, that is, the concession is given for the period of 30 years.

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Maximum duration of the concession is determined based on public interest, subject of concession, mutual interest of the country and concessionaire regarding revenue generation and optimal production of electrical energy from hydro-energy facilities on water streams that are the subject of this public bidding process and economic-financial analysis.

Duration of concession may be prolonged after initially determined duration, in accordance with the law and provisions regulating this field.

8. Spatial-planning documentation

According to the Law on Spatial Development and Building of Objects, in order to build a certain object, that is, change the spatial environment, it is necessary to obtain urban-planning requirements, issued by the ministry in charge of the building construction, and based on the planning document. It is the obligation of the ministry authorized to develop spatial-planning documentation or local authority that has the jurisdiction over the given water stream, to develop national or local spatial-planning document in accordance with the accepted Preliminary/conceptual design from the bid. For the acquirement of urban-planning conditions, it is essential to solve property ownership issues on locations on which construction of sHPP facilities is planned.

Concession award for exploitation of water streams from able 1 is carried out in accordance with the Law on Concessions, implying that the concessionaire obtains a free right to use the land in the property of the concession grantor during the concessionary activities.

If the location is in private ownership, concessionaire is required to, in accordance with the law and as duly prescribed, provide for the accessibility of land for construction and exploitation of sHPP.

If the concessionaire, in accordance with the law, acquires the right to prolong the Concession Agreement, concessionaire prolongs the right to exploit sHPP facilities and have access to lend in function of concessionary activity. In this case, ownership transfer of sHPP facilities is postponed for the period of prolongation of Concession Agreement.

9. Draft Concession Agreement

Legal Office

10. Environmental protection and promotion of energy efficiency

Power generation is found among main causes influencing global, regional and local pollution. With that in mind, development and reform of the energy sector in Montenegro must occur in accordance with provisions for environmental protection. *Energy Development Strategy of Montenegro until 2025* and *Action Plan for the implementation of Energy Development Strategy of Montenegro 2008-2012* acquired a good balance between a sustainable energy development in Montenegro and environmental protection. Strategy recognizes the importance of renewable energy sources and their exploitation for production of electrical energy in Montenegro. One specific program of eight in total in the Action Plan is the program of development and exploitation of renewable energy sources, with a special project related to construction of small hydropower plants.

Environmental law (“OGOM 48/08) determines that Montenegro is to synchronize its economic and social development and growth with principles of environmental protection comprising of: protection of natural heritage, biological diversity, risk reduction, environmental assessment, alternative solutions, substitution of chemicals, reuse & recycle, polluters’ responsibility for pollution and penalty fees, charge the use of natural heritage, insurance for responsibility for potential pollution, transparency of information regarding environment and timely and complete monitoring and reporting.

So as to harmonize provisions from the field of environmental protection with EU legislation, the following legislation has been adopted: Law on Strategic Environmental Assessment („OGRoM” 80/05), Law on Environmental Assessment („OGRoM” 80/05), Law on integrated Pollution Prevention and Control („OGRoM” 80/05), as well as Waste Management Law („OGRoM” 80/05, „OGOM”. 73/08).

Law on Environmental Assessment defines the methodology of environmental impact of certain project, content of the elaborate of assessment, participation of stakeholders, organization and procedure in decision-making process, process of evaluation on issuance of agreement on the elaborate of environmental assessment, cross-border reporting and other issues in this field.

Pursuant to Article 5 of the Law on Environmental Assessment, a Decree on Projects requiring Environmental Assessment („OGRoM” 20/07) was adopted. This Decree contains two lists:

- List 1 – Projects requiring Environmental Assessment, and
- List 2 – Projects for which Environmental Assessment may be requested

In case construction of sHPP leads to the accumulation of water in the amount greater than 10 mil cubic meters, as determined in List 1, concessionaire is required to develop an elaborate in environmental impact of the sHPP on environment, as correspondingly obtain approval from an authorized institution.

In list 2, under item 3- Power generation, and item 12-Infrastructural projects, it has been determined that for “facilities used for production of hydro-electrical energy” and for “development of accumulation of water in the amount not greater than 10 mil cubic meters” to be used for sHPP purposes, authorized institution carries the environmental assessment if deemed necessary. Taking into account that sHPP fall under given categories, concessionaire is required to carry out the process of environmental assessment and obtain the approval of the authorized institution for the elaborate on the environmental assessment of construction of sHPP on environmental, or obtain decision that the elaborate and assessment are not necessary.

Promotion of energy efficiency

Qualified bidder is expected to develop a Preliminary/conceptual design that optimally exploits the water-energetic potential of the water stream for production of electrical energy in sHPP. Within the framework of the defined Preliminary/conceptual design, all locations of sHPP facilities on a given water stream should be included so that the water-energetic potential of the water stream can be optimally used, at the same time complying with the existing spatial,

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environmental and economic limitations on a given water stream. Also, further developments in design and planning when working on concept project design and main design, that is, realization in I phase of the Concession Agreement, project designer hired by the concessionaire must comply with energy efficiency measures for design of sHPP facilities. Energy efficiency criteria should be taken into account during the selection of the facility equipment, as well as later, during the exploitation and maintenance phases.

11. Initial amount of concessionary fee

For techno-economic use of hydro-energy potential that represents the subject of this concession, concessionaire pays to the concession grantor annual amount of concessionary fee that is determined in public bidding process, and where the initial amount of the fee is 2% of the contract price of electrical energy planned for a given sHPP on annual level. Initial amount of concessionary fee is determined in the Decree on Method and Conditions of Concession Award for Water Stream Exploration and for techno-economic exploitation of the water-energy potential of water stream with the purpose of production of electricity energy from small hydropower plants („OGRoM” 70/06).

Payment from previous paragraph does not relieve the concessionary of the obligation to cover other fees and charges in accordance with valid legislation.

12. Method of tariff determination for provision of services

Authorized institution, pursuant to Article 32 para. 5 of Energy Law, adopted Instructions on methodology determination of the calculation of the purchase price of electrical energy from small hydropower plants („OGRoM” 46/07). Based on the Energy Law, Statute of the Energy Regulatory Agency („OGRoM” 31/04) Instructions on methodology determination of the calculation of the purchase price of electrical energy from small hydropower plants, Board of Agency adopted the Decision on determination of the calculation of the purchase price of electrical energy from small hydropower plants, at the meeting held on 27.11.2008., which contains:

- Determination of the purchase price of electrical energy from small hydropower plants with installed capacity up to 10 MW, delivered at the distribution network connection point to be 7,9277 c€/kWh;
- Purchase price of electrical energy from previous item will be applied from 01.12.2008. and will be harmonized simultaneously with change in tariffs for electrical energy in Montenegro.

13. List of provisions applied to the concession awarding process and conduction of concessionary activities

Legal provisions, applied to the public bidding process for concession award and realization of concessionary activities, are the following:

- Law on Concessions („OGOM”, 08/09);
- Energy Law („OGRoM”, 39/03);
- Law on Waters („OGRoM”, 27/07);
- Law on Spatial Development and Construction of („OGOM” 51/08);
- Environmental Law („OGRoM” 12/96, 55/00, 80/05 and „OGOM” 48/08);
- Law on Strategic Assessment on Environment („OGRoM” 80/05);
- Law on Environmental Assessment („OGRoM” 80/05);
- Law on Financing of Water Management („OGOM” 65/08);
- Law on integrated Pollution Prevention and Control („OGRoM” 80/05);

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- Waste Management Law („OGRoM” 80/05, „OGoM”. 73/08);
- Law on National Parks („OGRoM” 47/91, 17/92, 27/94,);
- Law on Property Ownership („OGoM” 19/09);
- Law on Nature Protection („OGoM” 51/08, 21/09);
- Law on Protection of Cultural Heritage („OGRoM” 47/91, 27/94);
- Law on Protection at Work („OGRoM”. 79/04);
- Law on Ratification of Kyoto Protocol with UN Framework Convention on Climate Change („OGRoM”17/07);
- Law on Protection from Noise in Environment („OGRoM” 45/06);
- Law on Public Property („OGoM” 21/09);
- Law on Fresh-water fisheries („OGoM” 11/07);
- Decree on Method and Conditions of Concession Award for Water Stream Exploration and for techno-economic exploitation of the water-energy potential of water stream with the purpose of production of electricity energy from small hydropower plants („OGRoM” 70/06);
- Decree on Projects requiring Environmental Assessment („OGRoM” 20/07);
- Decree on categorization and categories of water objects and their management and maintenance („OGRoM” 15/08);
- Rulebook on Technical Conditions for Connection of Small Hydropower Plants to Electr-energy Network („OGRoM” 25/07);
- Instructions on methodology determination of the calculation of the purchase price of electrical energy from small hydropower plants („OGRoM” br. 46/07);
- Rulebook on methodology and criteria for issuance of authorization in electro-energetic sector of Montenegro, Energy Regulatory Agency document, 24. 07. 2007;
- Interim Distribution Codex („OGorM” 13/05)
- Rulebook on methodology of assessment of concept project design and main project („OGoM” 81/08);
- Rulebook on licences in energy sector of Montenegro („OGRoM”. 50/04);
- Rulebook on methodology on determination of guaranteed minimum of flow sdownstream from water intake („OGoM” 22/08);
- Rulebook on contents of documentation submitted with the request to decide the need for Environmental Assessment („OGoM”14/07);
- Rulebook on contents of documentation submitted with the request to decide the need and content and size of Strategic Environmental Assessment („OGoM”14/07);
- Rulebook on contents of elaborate of Environmental Assessment („OGoM”14/07);
- Rulebook on content of request and documentation for issuance water regulation, methodology and requirements for mandatory announcement in the process of determination of water conditions and content of water regulation („OGoM” 07/08);
- Rulebook on methodology of determination and maintenance of zones and areas of sanitary protection of drinking-water springs and limitations in given zones („OGRoM”08/97);
- Rulebook on contents of Preparatory works Assessment („OGoM” 80/08) and
- Other primary and secondary legislation and technical provisions in the field and related to concessionary activities.