

HOW TO SECURE LAND FOR RENEWABLE ENERGY PROJECT IN KAZAKHSTAN

Land use rights are regulated primarily by the Land Code, the Civil Code and the Law on Real Property Registration.

Procedure on obtaining the land use right may vary depending on the category and purpose of the land.

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What are the categories of the land in Kazakhstan?

- Agricultural lands
- Residential lands (cities, towns, rural settlements)
- Lands for industry, transport, communications, activity spaces, defense, national security and other non-agricultural purposes
- Lands for nature reserves, sanatory lands, lands of recreational and historical-cultural designation
- Forestry fund lands
- Water fund lands
- Reserve lands¹

State owned land

- right to a short-term (up to 5 years) land use
- right to a long-term (from 5 to 49 years) land use

Privately owned land can be obtained by means of

- a lease agreement with the owner
- a sale-purchase agreement with the owner

¹ Article 1 of the Land Code of the Republic of Kazakhstan dated June 20, 2003 (the Land Code)

How can a developer obtain land use rights in Kazakhstan?

1 step: Choosing the appropriate option for obtaining the land use right

Most convenient options for obtaining the land use rights for RE projects:

OPTION 1:

Permission to use of the land plot for engineering survey activities

- The developer applies for the provision of a land plot to the local municipality, after completing the engineering survey activities²

OPTION 2:

Inclusion in the RE Facilities Siting Plan (based on the auction results)

- The winner of the RES auction is to be added in the RE Facilities Siting Plan³
- The local municipality reserves land plots for the construction of RE facilities until the auction winners register the land use right⁴
- Afterwards, the auction winner automatically applies for the provision of a land plot to the local municipality⁵

*There is a mandatory requirement for RE facilities to be added in the RE Facilities Siting Plan developed and approved by the Ministry of Energy³

OPTION 3:

In-kind grant for temporary gratuitous use of land plot

- The RE facility construction project is implemented as part of the investment priority project⁶
- The investor signs an investment contract with the authorised investment authority⁷
- After executing of the investment contract, the investor may receive the state in-kind grant and apply for the provision of a land plot to the local municipality⁷

2 step: Registration of the land use right for the construction of RE facilities

² Article 71 of the Land Code

³The Order of the Acting Minister of Energy of the Republic of Kazakhstan dated July 27, 2016 No. 345, On Approval of the Rules for the Formation of the RE Facilities Siting Plan

⁴Rules for the Reservation of Land approved by the Order of the Minister of National Economy of the Republic of Kazakhstan dated February 28, 2015, No. 178

⁶Resolution of the Government of the Republic of Kazakhstan dated February 24, 2020

⁵Article 43 of the Land Code

⁷Order of the Minister for Investments and Development No. 1133 dated November 30, 2015, On Certain Issues of State Support for Investments

Option 1: The land plot use for engineering survey activities

STEP 1

Memorandum of understanding with the local municipality

- Survey works for construction purposes are carried out on lands owned by the state without granting the right to a land plot
- The designed construction project must comply with the urban development plans⁸



STEP 2

Permission to use the land plot for engineering surveys activities

- The Order is issued by the local municipality within 10 working days⁹

Contract on conducting engineering survey activities

- Engineering surveys for construction are carried out by licensed legal entities and/or individuals (surveyors) with an appropriate license
- Surveyors may carry out these works without withdrawing the lands from private owners or land users⁸

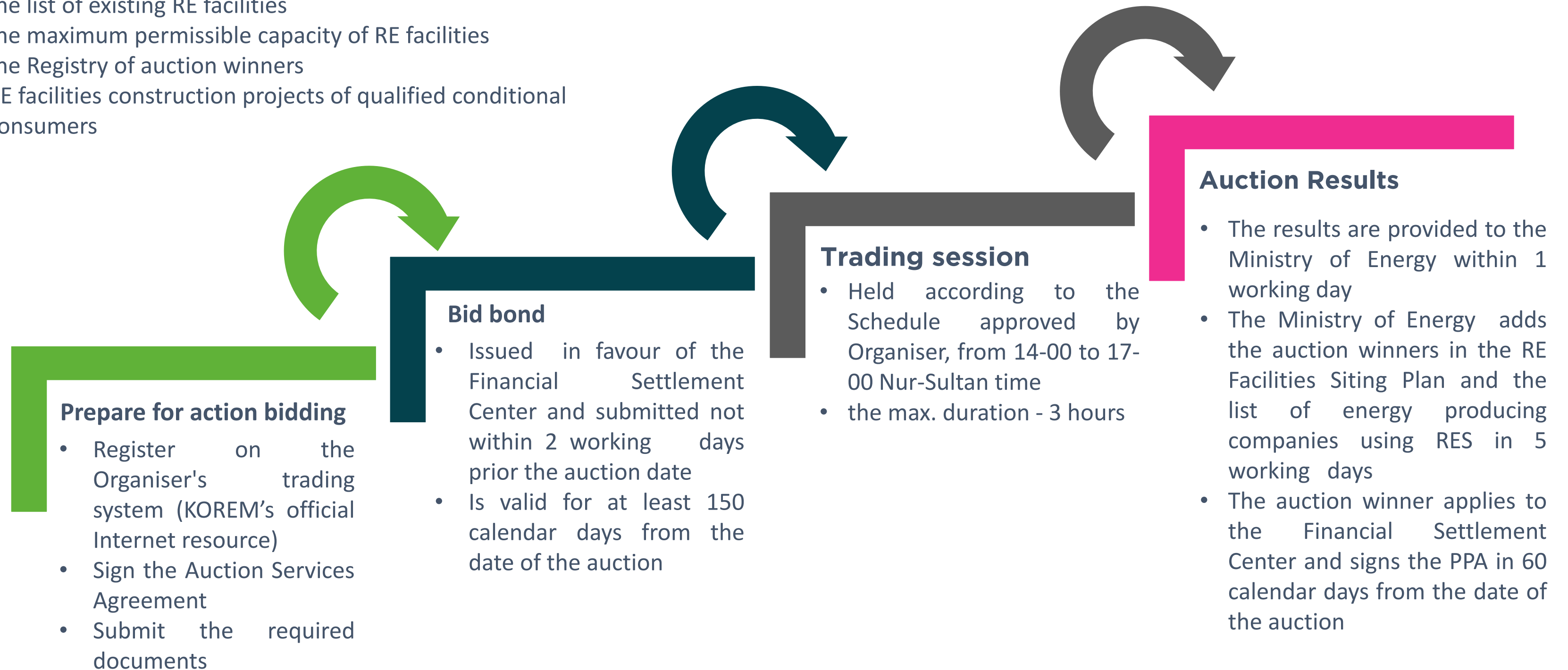
⁸Art. 71 of the Land Code

⁹Standard of Public Service: Issue of a Permit for the Use of a Land Plot for Surveying Works, Appendix 10 to the Order of the Acting Minister

Option 2: Participation in RE auctions / RE facilities siting plan

The RE facilities siting plan is developed based on¹⁰:

- the RE sector development targets
- the list of existing RE facilities
- the maximum permissible capacity of RE facilities
- the Registry of auction winners
- RE facilities construction projects of qualified conditional consumers



¹⁰The Order of the Acting Minister of Energy of the Republic of Kazakhstan dated July 27, 2016 No. 345, On Approval of the Rules for the Formation of the RE Facilities Siting Plan

Option 3: In-kind grant for temporary gratuitous use of land plot

STEP 1

Apply to the Committee on Investments, Ministry of Foreign Affairs of the Republic of Kazakhstan

STEP 2

Sign the investment contract within 10 business days after the decision on granting investment preferences is made

STEP 3

Register the investment contract with the Committee on Investments of the Ministry of Foreign Affairs within 5 business days from the date of signing¹¹

Priority investment project is an investment project for¹²:

- construction of production facilities, providing for investments of at least approx. USD14 mln.
- expansion and/or renovation of existing production facilities, providing for investments of at least approx. USD35 mln.

¹¹Article 294 of the Entrepreneurial Code of the Republic of Kazakhstan dated October 29, 2015 No. 375-V ZRK

¹²Order of the Minister for Investments and Development No. 1133 dated November 30, 2015, On Certain Issues of State Support for Investments

Further actions for options 1-3:

Registration of the land use right for the construction of RE facilities

STEP 1



Apply to the local municipality to obtain the land plot

STEP 2

Land plot selection act

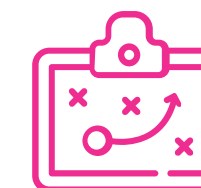
- Land plot selection act is developed by Land Relations Offices jointly with Architecture and Urban Planning Offices (A&UPO) in 10 working days

STEP 3

Land management project

- Resolution of the Land Commission to grant or refuse the land plot approved within 5 working days
- Development of the land management project by the Research and Production Center of the Land Cadastre/ licensed entities
- The land management project is approved by the Land Relations Offices in 7 working days

STEP 4



Land commission decision

- Land commission of the local municipality approves it in 7 working days

Further actions: Registration of land use right for construction of RE facilities

STEP 5



Land use contract
(short-term, long-term, non-gratuitous, gratuitous)

- Is signed on the basis of the decision on granting the land plot rights in 10 working days
- Issued by the local municipality

STEP 6

Act of land delineation
in the field

- The Land Relations Offices develop the Act within 1 months

STEP 7

Identification
documents for a land
plot

- A certificate is issued by the local Public Service Center within 4 working days after submitting the documents

STEP 8



State registration of
the land use right

- The land use rights must be registered by the local Public Service Center within 3 working days after submitting the documents

What other permits may be required for the Developer?



Environmental Impact Assessment (EIA):

The EIA is mandatory for all types of economic and other activities that may have a direct or indirect impact on the environment.

As part of the EIA the Developer must obtain the permits on absence of the objects of historical and cultural heritage, burial grounds, as well as approvals from the forest and animal inspection.



Environmental Permits:

Natural resource users emitting pollutants to the environment are required to obtain an environmental emissions permit.

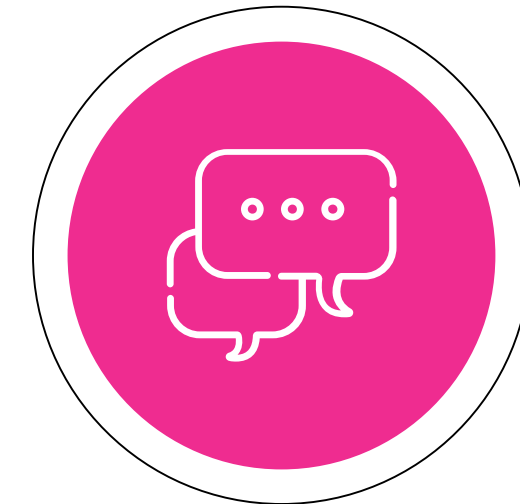
Natural resource users are obliged to submit a quarterly report on the fulfillment of the environmental management conditions to the local authority.



Special Water Use Permit: (for hydropower plants)

The permit to water use is granted for:

- Short-term use: up to 5 years
- Long-term use: from 5 to 49 years.



Compensation for losses in agricultural production:

There is a reimbursement to the state budget for losses of agricultural production caused by the seizure of agricultural land for purposes not related to agriculture.

The compensation is paid in case of the change of the category of agricultural lands.