

The Auction by Competitive Bidding of Coal Mines Rules, 2012

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The Auction by Competitive Bidding of Coal Mines Rules, 2012¹

In exercise of the powers conferred by clause (d) of sub-section (2) of Section 13 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Central Government hereby makes the following rules, namely—

1. Short title and commencement.—(1) These rules may be called the Auction by Competitive Bidding of Coal Mines Rules, 2012.

(2) These rules shall come into force on the date of their publication in the Official Gazette.

2. Definition.—(1) In these rules, unless the context otherwise requires,—

(a) “Act” means the Mines and Minerals (Development and Regulation) Act, 1957 (No. 67 of 1957);

(b) “Coal” includes anthracite, bituminous, lignite, peat and any other form of carbonaceous matter sold or marketed as coal and also coke;

(c) “floor price” means the minimum price fixed by the Central Government for an area containing coal offered for auction by competitive bidding;

(d) “reserve price” means the price fixed by the Central Government for an area containing coal which is to be allotted otherwise than through auction by competitive bidding.

(2) Words and expression used herein but not defined and defined, in the Act shall have the meanings respectively assigned to them in the Act.

3. Procedure for allocation of area containing coal through auction by competitive bidding.—(1) The Central Government shall,—

(a) identify area containing coal for allocation through auction by competitive bidding;

(b) earmark areas containing coal for each specified end use separately for the purpose of auction;

(c) invite offers through auction from the companies engaged in the business of specified end uses as mentioned in Section II-A of the Act for the allocation of Coal or lignite blocks in the areas identified under clause (a);

(d) notify a floor price for each area, identified under clause (a).

(2) The companies as mentioned in clause (c) of sub-rule (1) shall be required to submit their offer to the invitation in two parts, namely—

(i) technical bid; and

(ii) commercial bid.

1. Ministry of Coal, Noti. No. S.O. 207(E), dt. 2-2-2012, published in the Gazette of India, Extra., Part II, Section 3(ii), dt. 2-2-2012, pp. 2-3, No. 182.

(3) The successful bidder shall be allocated the area containing coal identified under clause (a) of sub-rule (1).

4. Procedure for allocation of area containing coal to Government companies.—(1) The Central Government shall,—

- (a) identify area containing coal for allocation to the Government company or corporation as mentioned in the clause (a) of proviso to Section 11-A of the Act;
- (b) earmark area containing coal for mining or other specified end use, separately for the purpose of allocation;
- (c) fix a reserve price for each of the areas specified in clause (a).

(2) The Central Government shall circulate to the State Governments and concerned Ministries of the Central Government list of the areas containing coal identified inviting applications from the Government companies or corporations for allocation.

²[(2-A) The application for allocation of area containing coal shall contain details of the action taken for development, the capability of the company or corporation, its financial and technical capacity and the status of area containing coal allotted earlier to the company or corporation.]

(3) The applications received shall be considered in consultation with concerned State Governments and the ministries of the Central Government.

³[(3-A) A Committee, constituted by the Central Government, consisting of the secretary to the Government of India in the Ministry of Coal as chairperson and/such other members from various departments of the Central Government as it may deem fit, shall, after considering the applications received and assessing their eligibility based on the criteria specified in the circular referred to in sub-rule (2), and comparative evaluation, submit its recommendation to the Government for consideration.

(3-B) The Committee may, if consider necessary for the purpose of sub-rule (3-A), invite representative of the State Government where the area containing coal is located.]

(4) The company or corporation for allocation of area containing coal shall be selected from amongst the eligible applicants ⁴[after considering the recommendations of the Committee made under sub-rule (3-A)].

(5) The area containing coal shall be allocated to the selected Government company or corporation.

⁵[(6) Every company or corporation shall comply with the terms and conditions of allocation of area containing coal for the purpose of—

- (i) mining as laid down in Part I of the Schedule to this notification;

2. *Ins.* by S.O. 3008(E), dt. 27-12-2012 (w.e.f. 27-12-2012).

3. *Ins.* by S.O. 3008(E), dt. 27-12-2012 (w.e.f. 27-12-2012).

4. *Ins.* by S.O. 3008(E), dt. 27-12-2012 (w.e.f. 27-12-2012).

5. *Ins.* by S.O. 3008(E), dt. 27-12-2012 (w.e.f. 27-12-2012).

- (ii) specified end use as laid down in Part II of the Schedule to the notification.]

5. Procedure for allocation of area containing coal to a company or corporation awarded a power project on the basis of competitive bids for tariff.—(1) The Central Government shall,—

- (a) identify area containing coal for allocation to a company or corporation awarded a power project on the basis of competitive bids for tariff as mentioned in the clause (b) of proviso to Section II-A of the Act for the purpose of obtaining reconnaissance permit, prospecting licence or mining lease from the State Government;
- (b) fix a reserve price for each area specified in clause (a);
- (c) circulate to the State Governments and the Ministry of Power of the Central Government a list of the areas in clause (a) for inviting applications from eligible Government companies and corporations for allocation.

(2) The applications received shall be considered in consultation with the concerned State Governments and the Ministry of Power of the Central Government.

(3) The Central Government thereafter shall earmark the area containing coal to the selected State Governments for allocation to the company or corporation awarded a power project on the basis of competitive bids for tariff.

(4) The State Governments shall select a company or corporation on the basis of competitive bids for tariff and recommend for allocation of area containing coal to such company or corporation.

(5) The area containing coal shall be allocated to the selected company or corporation.

6. Proceeds of auction.—The proceeds of the auction under clause (c) of sub-rule (1) of Rule 3 and reserve price shall be transferred to the concerned State Government where the area is located.

7. Agreement with allocatee company.—The Central Government shall enter into an agreement with the allocatee company.

8. Action for contravention or non-fulfilment of obligations etc.—In case of contravention or non-fulfilment of the obligations under the agreement or the terms and conditions of allocation, the Government reserves the right to take appropriate action including the right to de-allocate the area containing coal after giving reasonable opportunity of being heard.

⁶[THE SCHEDULE
[See Rule 4(6)(i) and (ii)]

PART I

TERMS AND CONDITIONS OF ALLOCATION OF AREA
CONTAINING COAL FOR THE PURPOSE OF MINING

⁷[1. (1) The coal produced from the allocated areas containing coal shall be distributed through the long term contract or linkage approved by the Central Government or as the case may be, the State Government.

Explanation.—It is clarified that by giving retrospective effect to the notification, no one will be adversely affected and this amendment has been given retrospective effect to clear the typographical errors.]

(2) The criteria for the distribution of coal through the long term contract or linkage, to specified end users, referred to sub-paragraph (1) may include the preparedness of the project, financial capability of the project proponent, preliminary availability of land, water, etc.

(3) The Central Government or, as the case may be, the State Government shall decide on a detailed transparent mechanism for this purpose.

2. In case, coal from the allocated areas containing coal is supplied to power plant, such power plant shall enter into a Long Term Power Purchase Agreement with the distribution company as per the policy guidelines issued by the Central Government, from time to time.

3. The allocatee company shall notify the price, from time to time, and may supply up to—

(a) ninety per cent, of production on the price so notified; and

(b) ten per cent, through e-auction which may be increased by five per cent by the Central Government or, as the case may be, the State Government.

4. The production of coal shall be as per the approved Mining Plan and the terms and conditions of the Mining Lease.

5. The Central Government or, as the case may be, the State Government and the allocatee company shall ensure utilisation of coal for the purpose it has been supplied.

6. The allocatee Company shall be responsible for development of coal block as per the specified milestones.

7. The Central Government or, as the case may be, the State Government shall institute a mechanism for development of coal block and regular physical inspections to ensure monitoring of development of the coal block as per specified milestones and submitting quarterly reports to the Central Government in the Ministry of Coal or an agency authorized by it, in addition to any monitoring or inspection by the Central Government.

8. The Mining Lease shall be in the name of the allocatee company and shall be remain with a Government company and the formation of joint venture by such company with any private company shall not be permitted for development of areas containing coal allocated under these rules.

9. The allocatee company shall file an annual return regarding distribution and utilisation of coal to the Coal Controller and the agency authorized by the Central Government or, as the case may be, the State Government.

10. The allocatee company shall submit the Bank Guarantee as may be specified by the Central Government in this behalf.

6. Ins. by S.O. 3008(E), dt. 27-12-2012 (w.e.f. 27-12-2012).

7. Subs. by S.O. 737(E), dt. 11-3-2014 (w.r.e.f. 27-12-2012).

11. The reserve price shall be payable by the allocatee company as specified in the allocation letter or the agreement and in case the reserve price is yet to be determined, the allocatee company shall furnish an undertaking for paying the reserve price within the specified time, after the reserve price is determined by the Central Government, failing which the allocation shall stand cancelled.

12. In case the mine is developed through the Mine Developer and Operator, the selection of such Mine Developer and Operator shall be through a competitive bidding process and the allocatee company shall inform the State Government about the engagement of the Mine Developer and Operator and the terms and conditions of such engagement, as soon as it is finalized.

13. The allocatee company shall ensure that the criteria of bidding for engagement of Mine Developer and Operator is not linked to the notified price of the Coal India Limited.

14. The Mine Developer and Operator shall maintain all records required to be maintained and shall make available such records for inspection by the allocatee company, the State Government and the Central Government.

PART II

TERMS AND CONDITIONS OF ALLOCATION OF AREA CONTAINING COAL FOR THE PURPOSE OF SPECIFIED END USE

1. The allocatee company shall utilize the coal for captive purpose only in the specified end use for which the area containing coal has been allocated and in case of washing, the middlings shall be utilized for captive power generation only with the approval of the Central Government or an agency authorized by it in this behalf.

2. The allocatee company shall be responsible for development of area containing coal as per the specified milestones.

3. The Central Government or, as the case may be, the State Government shall institute a mechanism and regular physical inspections to ensure monitoring of development of the area containing coal as per specified milestones and submitting quarterly reports to the Central Government in the Ministry of Coal or an agency authorized by it, in addition to the monitoring or inspection by the Central Government.

4. The production of coal shall be as per the approved Mining Plan and the terms and conditions of the Mining Lease.

5. The Mining Lease shall be in the name of the allocatee company and shall remain with a Government company and the formation of joint venture by the company with any private company shall not be permitted for development of areas containing coal allocated under this dispensation.

6. The allocatee company shall file an annual return regarding utilisation of coal to the Coal Controller and the agency authorized by the Central Government or, as the case may be, the State Government.

7. The allocatee company shall submit the Bank Guarantee as may be specified by the Central Government in this behalf.

8. The reserve price shall be payable by the allocatee company as specified in the allocation letter or the agreement and in case the reserve price is yet to be determined, the allocatee company shall furnish an undertaking for paying the reserve price within the specified time, after the reserve price is determined by the Central Government, failing which the allocation shall stand cancelled.

9. In case the mine is developed through the Mine Developer and Operator, the selection of the Mine Developer and Operator shall be through a competitive bidding process and the allocatee company shall inform the State Government about the engagement of the Mine Developer and Operator and the terms and conditions of such engagement, as soon as it is finalized.

10. The allocatee company shall ensure that the criteria of bidding for engagement of Mine Developer and Operator is not linked to the notified price of the Coal India Limited.

