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## STEEL & MINES DEPARTMENT

### NOTIFICATION

The 26th June, 2019

**S.R.O. No. 215/2019**—In exercise of the powers conferred by Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Government of Odisha hereby makes the following rules for auction of specified minor minerals, namely:—

#### CHAPTER – I

#### PRELIMINARY

**1. Short title and Commencement:—** (1) These rules may be called the Odisha Specified Minor Minerals Auction Rules, 2019.

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

**2. Definitions:—** (1) In these rules, unless the context otherwise requires,

- (a) “Act” means the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957);
- (b) “Floor price” means the highest initial price offer amongst the technically qualified bidders as referred to in clause (d) of sub-rule(5) of rule 7;
- (c) “Qualified bidders” means the bidders referred to in clause (e) of sub-rule (5) of rule 7;
- (d) “reserve price” means the minimum percentage of value of mineral dispatched as referred to in clause (d) of sub-rule (2) of rule 7;
- (e) “Rules 2016” means the Odisha Minor Mineral Concession Rules, 2016;
- (f) “Successful bidder” means the bidder as referred to in sub-rule (6) of rule 7 or rule 12;
- (g) “Technically Qualified bidders” means the bidder referred to in clause (c) of sub-rule (5) of rule 7;

- (h) "Tender document" means the tender document issued by the Government for conduct of an auction as referred to in sub-rule (2) of rule 7; and
- (i) "Upfront payment" means the payment referred to in sub-rule (6) of rule 8.

(2) The words and expressions used in these rules but not defined herein shall have the same meaning as assigned to them in the Act or the Rules, 2016.

**3. Applicability:—**These rules shall apply to all specified minor minerals as defined in the Rules, 2016.

## **CHAPTER—II**

### **PROCEDURE FOR AUCTION OF MINING LEASE**

**4. Notice Inviting Tender for Mining Lease :—** (1)The State Government may initiate an auction process for grant of mining lease with respect to an area by publishing a notice inviting tender, at least thirty days before the intended date of auction.

(2) The notice inviting tender shall be published in two daily newspapers, at least one of which shall be State level and the other having wide publicity in the area where the area notified for auction is located and on the website of the Government.

**5. Eligibility for Mining Lease:—** (1) No person shall be eligible to participate in the auction process for grant of mining lease for specified minor mineral(s), unless such person—

- (a) is an Indian national or company as defined in clause (20) of Section 2 of the Companies Act, 2013,(18 of 2013);
- (b) does not hold mining lease(s) for the particular specified minor mineral to the extent of area, which, together with the area being auctioned, is in excess of the area limit prescribed in rule 5 of the Rules, 2016; and
- (c) satisfies such other conditions as prescribed under Rules, 2016.

(2) The eligibility for participating in the auction shall be determined as per the terms and conditions of eligibility for participating in the auction as provided in the rules and the successful bidder shall be decided solely on the basis of financial bids submitted by the eligible bidders.

**6. Electronic Auction :—** (1) Auction under these rules shall be conducted only through online electronic auction.

(2) The Government may utilize any online electronic auction platform which meets the minimum technical and security requirements as specified in the guidelines for

compliance to quality requirements of e-procurement systems issued by the Standardization Testing and Quality Certificate Directorate, Department of Information Technology, Ministry of Communications and Information Technology, Government of India.

**7. Bidding process :—** (1) The Government shall issue a notice inviting tender to commence the auction process and such notice shall contain brief particulars regarding the area of auction, including—

- (a) particulars of the area identified and demarcated using total station and differential global positioning system divided into forest land, land owned by the Government, and land not owned by the State Government and
- (b) estimated mineral resources and brief particulars regarding evidence of mineral contents with respect to all minerals, discovered in the area during exploration.

(2) The tender document issued by the Government shall *inter alia* contain;—

- (a) geological report specifying particulars and estimated quantities of all minerals discovered in the area;
- (b) survey details of the area identified and demarcated using total station and differential global positioning system divided into forest land, land owned by the Government, and land not owned by the Government;
- (c) earmarking of the area for any particular end use, if decided by the Government as per Rules, 2016;
- (d) the reserve price expressed as the minimum percentage of the value of mineral dispatched which is the minimum amount of additional charge for auction as defined in the Rules, 2016; and
- (e) Bid Security amount as decided by the Government.

(3) The bidders shall be allowed a fixed period, as specified by the Government to study the tender document and such other reports and the bidding process shall commence only on expiry of such period.

(4) The auction shall be an ascending forward auction and shall comprise of attempts of auction with each attempt of auction constituting a first round of auction and a second round of auction.

- (5) (a) In the first round of auction the bidder shall submit—
- (i) a technical bid comprising amongst others, documentary evidence to confirm eligibility as per the provisions of the Act and the rules made thereunder to participate in the auction, bid security and such other documents and payments as may be specified in the tender document; and
  - (ii) an initial price offer which shall be a percentage of value of mineral dispatched.
- (b) Only those bidders who are found to be eligible in accordance with the terms and conditions of eligibility specified in rule 5 and whose initial price offer is equal to or greater than the reserve price, referred to as “technically qualified bidders”, shall be considered for second round of auction;
- (c) The highest initial price offer amongst the technically qualified bidders shall be the floor price for the second round of auction.
- (d) The technically qualified bidders shall be ranked in descending order on the basis of the initial price offer submitted by them and the top fifty per cent of the technically qualified bidders (with any fraction rounded off to higher integer) or the top five technically qualified bidders, whichever is higher, shall be declared as qualified bidders for participating in the second round of auction:

Provided that, if the number of technically qualified bidders is between three and five, then all the technically qualified bidders shall be considered as qualified bidders:

Provided further that, in the event of identical initial price offers being submitted by two or more of the first fifty per cent of the technically qualified bidders, all such technically qualified bidders shall be eligible to be declared as qualified bidders.

### ***Illustration***

In the event there are a total of ten technically qualified bidders, and each technically qualified bidder submits different initial price offer, then the top five technically qualified bidders shall be considered to be qualified bidders.

If there are eleven technically qualified bidders and the sixth rank is held by three technically qualified bidders with identical initial price offer, all these three bidders will be declared as qualified bidders to participate in the second round of auction.

- (6) Where the total number of technically qualified bidders is three or more, the auction process shall proceed to the second round of auction which shall be held in the following manner, namely:—
- (a) the qualified bidders may submit their final price offer which shall be a percentage of value of mineral dispatched and greater than the floor price:  
 Provided that the final price offer may be revised till the conclusion of the auction as per the technical specifications of the auction platform.
  - (b) the auction process shall be annulled if none of the qualified bidders submits a final price offer on the auction platform,
  - (c) the qualified bidder who submits the highest final price offer, namely, the highest additional charge as referred to in clause (b) of sub-rule (1) of rule-2 of Rules, 2016 shall be declared as the “successful bidder” immediately on conclusion of the auction.
  - (d) The successful bidder, on grant of the mining lease, shall pay to the Government the additional charge as referred to in clause (b) of sub-rule (1) of rule 2 of Rules 2016, which is an amount equal to the product of the following:—
    - (i) Final price so quoted, and
    - (ii) Quantity of mineral despatched in a month and
    - (iii) Average sale price as published by Director of Mines for that month of dispatch:
- (7) Where the total number of technically qualified bidders is less than three, no technically qualified bidder shall be considered to be the qualified bidder and the first attempt of auction process shall be annulled.
- (8) On annulment of the first attempt of auction, the Government may decide to -
- (a) commence the auction process de novo with a separate set of terms and conditions and reserve price as may be deemed fit; or
  - (b) conduct the second attempt of auction.

- (9) In case the Government decides to conduct the second attempt of auction as per clause (b) of sub-rule (8), the terms and conditions of the second attempt of auction shall remain the same as in the first annulled attempt of auction:

Provided that, the highest initial price offer of the technically qualified bidders, if any, in the first annulled attempt shall be the reserve price in the first round of second attempt:

Provided further that, the bidding shall continue to the second round even in case the number of the technically qualified bidders is less than three.

- (10) Where an area is being auctioned for more than one mineral, the additional charge as quoted by the successful bidder under sub-rule (6) shall be applicable for the purpose of payment to the Government in respect of each such mineral.
- (11) If subsequent to grant of a mining lease, one or more new minor minerals are discovered, it shall be intimated by the lessee and the additional charge as quoted by the successful bidder under sub-rule (6) shall be applicable for the purpose of payment to the Government in respect of each such mineral.

**8. Grant of Mining Lease :—** (1) The successful bidder shall submit the first installment being ten percent of the upfront payment as per sub rule (6) within fifteen days from the date of declaration under clause (c) of sub-rule (6) of rule 7.

(2) Upon receipt of the first installment of the upfront payment, the Government shall issue a letter of intent to the successful bidder.

(3) The successful bidder shall be considered for grant of mining lease upon fulfillment of the following conditions, namely:—

- (a) on compliance with all the terms and conditions of eligibility;
- (b) on payment of security deposit of an amount as prescribed under Rules, 2016;
- (c) on obtaining all consents, approvals, permits, no-objections and the like as may be required under the applicable laws for commencement of mining operations;
- (d) on satisfying all the conditions as specified in the letter of intent:

Provided that no mining lease shall be granted, if aforesaid conditions are not complied within two years from the date of the issue of letter of intent and in such

case, the letter of intent shall be invalidated leading to annulment of the entire process of auction:

Provided further that the Government may allow a further period of one year, if the reasons for such delay in compliance were beyond the control of the successful bidder.

(4) On payment of second installment being ninety per cent of the upfront payment as provided in sub-rule(6), the Mining Lease Deed shall be executed by the successful bidder and shall be subject to the provisions of the Act and the rules framed thereunder.

(5) The mining lease shall be for the minerals found in the area pursuant to exploration prior to the auction:

Provided that where, subsequent to the auction, any new minor mineral is discovered, then the holder of mining lease shall follow the provisions of the Rules, 2016 for inclusion of such new mineral in the Mining Lease Deed.

(6) Upfront payment for mining lease shall be calculated in the following manner, namely:—

- (a) An amount equal to zero point two percent of the value of estimated resources shall be the upfront payment.
- (b) The upfront payment shall be payable to the Government in two installments of ten per cent and ninety per cent as specified in the tender document and shall be adjusted in full at the earliest against the amount of additional charge payable as per clause (d) of sub-rule (6) of rule 7 on commencement of production of mineral as specified in the tender document.

### **CHAPTER – III**

#### **PROCEDURE FOR AUCTION OF PROSPECTING LICENCE-CUM-MINING LEASE**

**9. Notice Inviting Tender for Auction :—** (1) The Government may initiate an auction process for grant of composite license with respect to an area by publishing a notice inviting tender, at least thirty days before the intended date of auction.

(2) The notice inviting tender shall be published in two newspapers, at least one of which shall be State level and the other having wide publicity in the area, where the area is located and shall be published of the website of the Government.

**10. Eligibility for Prospecting License-cum-Mining Lease:—** (1) No person shall participate in the auction process for grant of prospecting license-cum-mining lease for specified minor mineral(s) unless such person –

- (a) is an Indian national or company as defined in clause (20) of Section 2 of the Companies Act, 2013,(18 of 2013)
- (b) does not hold prospecting license(s) or prospecting license-cum-mining lease(s) for any specified minor mineral to the extent of area, which together with the area being auctioned, is in excess of the area limit prescribed in rule 5 of the Rules, 2016 and
- (c) satisfies such other conditions as prescribed under Rules, 2016.

(2) The eligibility for participating in the auction shall be determined as per the terms and conditions of eligibility for participating in the auction as provided in the rules and the successful bidder shall be decided solely on the basis of financial bids submitted by the eligible bidders.

**11. Auction for Prospecting License-cum-Mining Lease :—** The auction process as specified in rules 6 and 7 shall be applicable *mutatis mutandis* for conduct of auction for grant of a Prospecting License-cum-Mining lease.

**12. Grant of Prospecting License-cum-Mining Lease:—** (1) Upon completion of the auction process, the Government shall issue a letter of intent to the successful bidder.

(2) On receipt of the letter of intent, the successful bidder shall be considered for grant of prospecting license-cum-mining lease under Rules, 2016 upon fulfillment of the following conditions, namely:—

- (a) on compliance with all the terms and conditions of eligibility;
- (b) on obtaining all consents, approvals, permits, no-objections and the like as may be required under the applicable laws for commencement of prospecting operations;
- (c) on submitting the scheme of prospecting; and
- (d) on payment of the security deposit of an amount as prescribed under Rules 2016:

Provided that, no prospecting licence-cum-mining lease shall be granted, if aforesaid conditions are not complied within one year from the date of the issue of letter of intent and in such case, the letter of intent shall be invalidated leading to annulment of the entire process of auction:



Provided further that, the Government may allow a further period of one year, if the reasons for such delay in compliance were beyond the control of the successful bidder.

(3) The prospecting license-*cum*-mining lease shall be executed by the successful bidder and shall be subject to the provisions of the Act and the rules framed thereunder.

(4) The holder of prospecting license-*cum*-mining lease shall apply for a mining lease for such area to the Government within three months of completion of the prospecting operations accompanied with the first installment being ten per cent of the upfront payment as per sub-rule (6) of rule 8:

Provided that the mining lease shall be granted only with respect to the area for which evidence of mineral contents has been found and shall not be for an area larger than the maximum area for which a mining lease may be granted under the Rules 2016:

Provided further that, any excess area shall be deemed to be surrendered by the holder of prospecting license-*cum*-mining lease after completing its reclamation.

(5) The Government, upon receipt of the duly completed mining lease application together with first installment of upfront payment and after evaluation of the final prospecting report, may issue a letter of intent to the holder of prospecting license-*cum*-mining lease for grant of mining lease.

(6) On satisfying all the conditions as specified in the letter of intent and on obtaining all the consents, approvals, permits, no-objection and the like as may be required under applicable laws for commencement of mining operations, the holder of prospecting license-*cum*-mining lease shall be granted the mining lease:

Provided that, all such compliances, consents, approvals, permits, non-objection and the like have been obtained within a period of three years from the date of execution of prospecting license-*cum*-mining lease, or such further period not exceeding a total period of two years as may be allowed by the Government, if the delay in obtaining these has occurred due to reasons beyond the control of the licensee.

(7) On payment of second installment being ninety per cent of the upfront payment as provided in sub-rule (6) of rule 8, the mining lease deed shall be executed and shall be subject to the provisions of the Act and the rules framed thereunder.

**CHAPTER-IV**  
**MISCELLANEOUS**

**13. Power to Rectify Apparent Mistakes :—** Any clerical or arithmetical mistake in any order passed by the Government or any Authority or Officer under these rules and any error arising therein for accidental slip or omission, may be corrected by the Government, the concerned Authority or Officer, as the case may be:

Provided that no rectification order prejudicial to any person shall be passed unless such person has been given a reasonable opportunity of being heard.

**14. Relaxation :—** Notwithstanding anything to the contrary contained in these rules, the Government reserves the right to relax any of the provisions of these rules in the interest of mineral development.

[No.4468-IV (MM) SM-77/2018/SM.]

By Order of the Governor

R.K.SHARMA

Additional Chief Secretary to Government