

No. M.IV-2306/2/2023-Mines IV

Government of India

Ministry of Mines

Shastri Bhawan, Dr. Rajendra Prasad Road

New Delhi-110 001

Dated:- 26th December, 2023

NOTICE

Subject: Amendment to the Mineral (Auction) Rules, 2015 for capping the amount of performance security and upfront amount.

Recently it has come to the notice of the Ministry of Mines that certain minerals blocks, particularly of critical and strategic minerals, have high value of estimated resources (VER) of critical and other associated minerals. Due to such high VER, the requirement of performance security and upfront amount (which are a percentage of VER) is also very high. Such huge requirement for performance security and upfront amount would reduce participation of the bidders in the auction process.

2. Under the Mineral (Auction) Rules, 2015 net worth requirement is capped at ₹200 Cr. for the auction of mining lease and ₹ 100 Cr. for the auction of composite licence. Similarly, bid security amount is also capped at ₹50 Cr. for auction of both mining lease and composite licence. However, there is no cap provided for the performance security and upfront amount.

3. The performance security and upfront amount are taken as monetary guarantee of performance by the successful bidder. As per rule 12 and 19 of the Mineral Auction Rules, performance security may be invoked as per the provisions of the Mine Development and Production Agreement or Mining Lease/ Prospecting Licence. Performance security amount is required to be maintained by the successful bidder till the expiry of mining lease period and is adjusted every 5 years on the basis of reassessed value of estimated resources in the block. Under Rule 11, upfront amount is adjustable in full against the auction premium payable by the successful bidder on commencement of

production. Thus, the amount of performance security and upfront amount beyond a certain amount does not serve any purpose but may act as a barrier in participation of bidders in the auction process. In any case, the successful bidder is required to pay auction premium (percentage quoted of the value of mineral dispatched) on actual production per month.

4. Accordingly, in order to encourage participation of bidders in auction of mineral blocks, including blocks of critical and strategic minerals, it is proposed to put a cap on the amount of performance security and upfront amount. It is proposed that Rule 11 (upfront payment) and 12 (performance security for mining lease) may be amended to provide a cap of ₹500 Cr. on the upfront amount and amount of performance security. Also, 19 (performance security for composite licence) may be amended to provide a cap of ₹250 Cr. on amount of performance security prior to issuance of composite licence and ₹500 Cr. on amount of performance security prior to issuance of mining lease. These amendments would be applicable for the preferred bidder selected pursuant the notice inviting tender issued after the date of commencement of the proposed amendments. A draft notification for amendment of the Mineral (Auction) Rules, 2015 is enclosed herewith.

5. As part of the Pre-Legislative Consultation Policy, comments/suggestions are invited from the general public, Governments of States and Union Territories, mining industry stake-holders, industry associations, and other persons and entities concerned, on the above draft notification for amendment of the rules.

6. The last date for receipt of the comments/suggestions is 10.01.2024.

7. The comments/suggestions may be sent by e-mail in MS-Office Word file to the following ID:

jspolicy-mines@gov.in

The subject of the e-mail should be "Comments/ suggestions on the amendment to the Mineral (Auction) Rules, 2015 for capping the amount of performance security and upfront amount".

8. Alternatively, comments/suggestions may also be sent by post to the following address:

Shri Mustaq Ahmad, Director
Ministry of Mines
Room No 313,
D-Wing Shastri Bhawan,
Dr Rajendra Prasad Road
New Delhi -110 001

The envelope may kindly be superscribed on the top with:

“Comments/ suggestions on the amendment to the Mineral (Auction) Rules, 2015 for capping the amount of performance security and upfront amount”.

Encl.: As above.



(Vinod Kumar)

Under Secretary to the Govt. of Indi
011-23383946

Draft Mineral (Auction) Third Amendment Rules, 2023

**TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART II, SECTION 3, SUB-SECTION (i)]**

MINISTRY OF MINES
NOTIFICATION

New Delhi, the __ December, 2023

G.S.R....(E).— In exercise of the powers conferred by section 13 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Central Government hereby makes the following rules further to amend the Mineral (Auction) Rules, 2015, namely:—

1. Short title and commencement.— (1) These rules may be called the Mineral (Auction) Third Amendment Rules, 2023.

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

2. In the Mineral (Auction) Rules, 2015 (hereinafter referred to as the said rules), in rule 11, in sub-rule (1), the following proviso shall be inserted, namely:—

“Provided that for the preferred bidder selected pursuant the notice inviting tender issued after the date of commencement of the Mineral (Auction) Third Amendment Rules, 2023, the amount of upfront payment shall not exceed five hundred crore rupees.”

3. In the said rules, in rule 12, in sub-rule (1), the following proviso shall be inserted, namely:—

“Provided that for the preferred bidder selected pursuant the notice inviting tender issued after the date of commencement of the Mineral (Auction) Third Amendment Rules, 2023, the amount of performance security shall not exceed five hundred crore rupees.”

4. In the said rules, in rule 19,—

(i) in sub-rule (1), after the first proviso, the following proviso shall be inserted, namely:—

“Provided that for the preferred bidder selected pursuant the notice inviting tender issued after the date of commencement of the Mineral (Auction) Third Amendment Rules, 2023, the amount of performance security shall not exceed two hundred and fifty crore rupees.”

(ii) in sub-rule (3), the following proviso shall be inserted, namely:—

“Provided that for the holder of composite licence selected pursuant the notice inviting tender issued after the date of

commencement of the Mineral (Auction) Third Amendment Rules, 2023, the amount of performance security specified in sub-rule (2) and (3) shall not exceed five hundred crore rupees.”

[F. No.]

(Dr. Veena Kumari Dermal)
Joint Secretary

Note:— The Mineral (Auction) Rules, 2015 were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 406(E), dated the 20th May, 2015 and lastly amended, vide number G.S.R. 648(E), dated the 1st September, 2023.