

No.F.13016/26/2004-CA-I(Pt.)
Government of India
Ministry of Coal

Shastri Bhawan, New Delhi.
Dated the 23rd November, 2012.

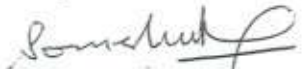
Office Memorandum

Sub: Draft Terms & Conditions for allocation of area containing coal to Government Companies for the purpose of Mining and specified end use under Rule 4 of the " Auction by Competitive Bidding of Coal Mines Rules, 2012" – Regarding.

I am directed to refer the meetings held on 11th May, 2012 and 15th October, 2012 under the Chairmanship of Secretary (Coal) to discuss the draft Terms & Conditions for allocation of coal blocks to Govt. companies under Rule 4 of the "Auction by Competitive Bidding of Coal Mines Rules, 2012" and the letter of even number dated 3-09-2012 seeking comments on the aforementioned subject. After taking into consideration the discussions held in the meetings and the written comments from State Govts. and other concerned agencies, the subject terms and conditions - for mining as well as specified end use – have further been modified. A copy of the modified draft is enclosed herewith at Annexure-I & II respectively.

2. You are requested to send your comments on these draft terms & conditions latest by 03-12-2012.

Encl: As above.


(P.Soma Shekar Reddy)
Director

To

1. All Chief Secretaries of State Governments/Union Territories.
2. The Secretaries of Ministries/Departments of Deptt. of Legal Affairs, IPP, Power, Steel, DEA, Joint Adviser (Energy), Planning Commission.

Copy to :

1. Sr.PPS to Secretary (Coal), PPS to AS(Coal), Joint Secretary (Coal), JS&FA, Ministry of Coal, Adviser (Projects), Ministry of Coal
2. Chairman, CIL, Kolkatta
3. CMD, CMPDIL, Ranchi
4. The Coal Controller, 1-Council House Street, Kolkatta-1.
- ✓ 5. TD, NIC for uploading Terms & Conditions at Annexure-I & II on the website

ANNEXURE- I

The draft terms and conditions under Rule 4 regarding allocation of area containing coal to Government Companies for the purpose of Mining shall be as under:

- i) The area containing coal shall be allocated to the Government Companies under the Rule 4 of 'the Auction by Competitive Bidding of Coal Mines Rules 2012'. The list of identified areas containing coal with detailed information as available with CMPDIL/NLC, both for explored and regionally explored areas containing coal, would be circulated to the concerned State Governments for inviting applications.
- ii) The applications submitted by the Government Companies shall contain detailed justification with reference to the requirements of the State, the existing linkages and the areas containing coal already allocated. The application should also contain details of the steps taken for development, the capability of the company – financial as well as technical and the status of area containing coal already allotted to them/to the undertakings of the state concerned.
- iii) The applications received in response to circulation as laid down in Rule 4(4) of 'the Auction by Competitive Bidding of Coal Mines Rules 2012' shall be considered by a committee to be so constituted by the Ministry of Coal, with representatives of the concerned Ministries of the Central Government and coal companies. The representatives of the concerned State Governments where area containing coal is located as well as representative of the State Government of the applicant company would be invited for the meeting as and when necessary.
- iv) The Committee after consideration of the applications received shall submit its recommendations to the Government for consideration, after assessing the eligibility based on pre-determined criteria and after making comparative evaluation.

- v) The coal produced from the allocated areas containing coal shall be distributed through the long term contracts/linkages to specified end users on the line of the linkages/ LoAs granted by the Standing Linkage Committee (Long Term) under Ministry of Coal. The criteria for the same may include the preparedness of the project, financial capability of the project proponent, preliminary availability of land, water, etc. The above criteria are only illustrative and the State Government shall decide on a detailed transparent mechanism in this regard. In case, coal from the allocated areas containing coal is supplied to power plants, such power plants shall have to enter into Long Term PPAs with DISCOMS and also as per the policy guidelines issued by the Ministry of Power, Government of India from time to time.
- vi) The allocatee company shall notify the price from time to time. They may consider supplying 90% of production on the above basis and 10% through e-auction. The share of disposal of coal through e-auction may be increased to an extent of 15% provided the competent authority of the State Government approves the same.
- vii) The production of coal shall be as per the approved Mining Plan and the terms and conditions of Mining Lease.
- viii) It shall be the responsibility of the State Government concerned as well as the allocatee company to ensure utilisation of coal as per the linkage arrangements.
- ix) The allocatee Government Company shall be responsible for development of coal block as per the milestones prescribed. The concerned State Government shall institute a mechanism, including regular physical inspections, to ensure regular monitoring of development of the coal block as per the milestones and submit quarterly reports to the Ministry of Coal or an agency authorized by it. This shall be in addition to any monitoring/ inspection by the Ministry of Coal or an agency authorized by it.
- x) The Mining Lease will be in the name of the allocatee company and shall always remain with a Government Company. Formation of Joint Venture

- with a private company is not permissible for development of areas containing coal under this dispensation.
- xi) An annual return regarding distribution/utilisation of coal shall be filed, with the Coal Controller as well an agency authorized by the State Government concerned, by the allocatee company.
 - xii) The allocatee company shall submit the Bank Guarantee as may be prescribed by the Ministry of Coal.
 - xiii) The reserve price shall be payable by the allocatee company as specified in the allocation letter/agreement. In case the reserve price is yet to be determined, the allocatee company shall have to furnish an undertaking for paying the same within the time prescribed, after the reserve price is determined by the Government/CMPDIL, failing which the allocation will stand cancelled.
 - xiv) In case the mine is developed through Mine Developer and Operator(MDO),the selection of the MDO shall be through competitive bidding process.
 - xv) The allocatee company shall inform the Government of the engagement of the MDO and the terms and conditions of such engagement thereof, as soon as the same is finalized. In such cases MDO shall be required to maintain all records as required statutorily and shall provide the same for inspection by the allocatee company, the authorities of the State Government as well as Central Government.
 - xvi) The allocatee company shall ensure that the bidding criteria for engagement of MDO is not linked to the notified price of CIL.
 - xvii) The Government of India reserves the right to issue directions on disposal of coal, washery products as well as other carbonaceous products, after taking into consideration the views of the State Government concerned.

ANNEXURE- II

The draft terms and conditions under Rule 4 regarding allocation of area containing coal to Government Companies for the purpose of specified end-uses shall be as under:

- i) The area containing coal shall be allocated to the Government Companies under the Rule 4 of 'the Auction by Competitive Bidding of Coal Mines Rules 2012'. The list of identified areas containing coal with detailed information, as available with CMPDIL/NLC, both for explored and regionally explored areas containing coal, would be circulated to the State Governments and concerned Ministries of the Central Government for inviting applications.
- ii) The applications submitted by the Government Companies shall contain detailed justification with reference to the requirements of the Company, the existing linkages and the area containing coal already allocated. The application should also mention the capability of the company – financial as well as technical. The application should also contain details of the steps taken for development and the status of area containing coal already allotted to the Company, and also the details of the end-use plants including their location, capacity, status of financial closure, status of installation of these plants etc.
- iii) The applications received in response to circulation as laid down in Rule 4(4) of 'the Auction by Competitive Bidding of Coal Mines Rules 2012' shall be considered by a committee to be so constituted by the Ministry of Coal with representatives of concerned Ministries of Central Government and coal companies. The representatives of the concerned State Government where area containing coal is located as well as representative of the State Government of the applicant company would be invited for the meeting as and when necessary.
- iv) The Committee after consideration of the applications received shall submit its recommendations to the Government for consideration, after assessing the eligibility based on pre-determined criteria and after making comparative evaluation.

- v) The production of coal shall be as per the approved Mining Plan and the terms and conditions of Mining Lease.
- vi) The allocatee Company shall utilize the coal for captive purpose only in the specified end-use for which the area has been allocated. In case of washing, the middlings shall be utilized for captive power generation only with the approval of the Ministry of Coal or an agency authorized by it.
- vii) The allocatee Government Company shall be responsible for development of coal block as per the milestones prescribed. The concerned Ministry of the Central Government or the concerned State Government shall institute a mechanism, including regular physical inspections, to ensure regular monitoring of development of the area containing coal as per the milestones and submit quarterly reports to the Ministry of Coal or an agency authorized by it. This shall be in addition to any monitoring/ inspection by the Ministry of Coal or an agency authorized by it.
- viii) The Mining Lease will be in the name of the allocatee company and shall always remain with a Government Company. Formation of Joint Venture with a private company is not permissible for development of areas containing coal under this dispensation.
- ix) An annual return regarding utilisation of coal shall be filed, with the Coal Controller as well as an agency authorized by the State Government concerned in case of allocation to a State Government Company by the allocatee company.
- x) The allocatee company shall submit the Bank Guarantee as may be prescribed by the Ministry of Coal.
- xi) The reserve price shall be payable by the allocatee company as specified in the allocation letter/agreement. In case the reserve price is yet to be determined, the allocatee company shall have to furnish an undertaking for paying the same within the time prescribed, after the reserve price is determined by the Government/CMPDIL failing which the allocation will stand cancelled.
- xii) In case the mine is developed through Mine Developer and Operator (MDO), the selection of the MDO shall be through competitive bidding process.
- xiii) The allocatee company shall inform the Government of the engagement of the MDO and the terms and conditions of such engagement thereof, as soon as the

same is finalised. In such cases MDO shall be required to maintain all records as required statutorily and shall provide the same for inspection by the allocatee company, the authorities of the State Government as well as Central Government.

- xiv) The allocatee company shall ensure that the bidding parameter for engagement of MDO is not linked to the notified price of CIL.
- xv) The Government of India reserves the right to issue directions on disposal of coal, washery products as well as other carbonaceous products after taking into consideration the views of the State Government concerned or the concerned Ministry of the Central Government.
- xvi) In case of power generation, the allocatee company shall have to utilize coal from the allocated area containing coal for the power plants owned by it for which PPA had been signed on or before the cut-off date of 05th January 2011. These PPAs are regulated under the provisions of Electricity Act, 2003 and Tariff Policy, 2006, where the fuel cost is factored in while determining tariff by the Regulatory Commission, thus passing on the benefit of low cost fuel to the consumers.