

GOVERNMENT OF ODISHA
DEPARTMENT OF STEEL AND MINES

No- 4564 /SM. Bhubaneswar, Dtd. 04.05.2023

SM-MC3-CC-002-2023

OFFICE ORDER

Sub: Standard Operating Procedure (SOP) for bidding process in respect of minor minerals.

The Hon'ble High Court, Odisha vide order dated 24.11.2022 in W.P(C) No-21196 of 2021 filed by Sri Dinakrushna Pattanaik vs State of Odisha & Others has directed to prepare a standard operating procedure (SoP) in the nature of guidelines and circulate the same to all statutory authorities, who are dealing with tender matters with strict instructions to act in accordance with the statute and also to make provisions for taking action against the authorities who are indulging in the activities, which causes loss to the state Exchequer jeopardizing public interest at large.

In the meantime, Odisha Minor Mineral Concession (Amendment) Rules, 2023 have been published vide Notification dated 24.04.2023 incorporating provisions and procedure for auction of minor minerals.

Basing on the provisions of OMMC(Amendment) Rules, the standard operating procedure (SoP) for bidding process in Minor Minerals in the nature of guidelines is enumerated below for strict observance of the same by the competent/statutory authority and to act in accordance with the law.

1. The area of the quarry lease shall be delineated and notification inviting application(s) for grant of quarry lease(s) through auction including e-auction shall be published in two daily newspapers, at least one of which shall be a State level and other having wide publicity in the area, where the lease is located and such notification shall be published at least fifteen(15) days before the intended date of inviting applications and shall contain the date and time within which applications shall be received. The State Government shall prescribe the terms and conditions and procedure subject to which the e-auction shall be conducted.
2. The Competent Authority shall identify the minor mineral source to be notified for auction and recommend to the Controlling Authority for approval in the i4MS portal by uploading the profile of the source along with specifying the minimum guaranteed quantity (MGQ) of the minor mineral to be extracted in a year by the applicant and the minimum amount of additional charge (MAC) payable for the same as determined under Rule 27 (15) of OMMC Rules, 2016 and through its amendment from time to time.



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3. The Controlling Authority, after due scrutiny and having satisfied with the proposal submitted by the Competent Authority, shall approve the minor mineral source identified by the competent authority to be put to auction. The Controlling Authority, while examining the proposal, may modify the proposed MGQ and MAC indicating the reasons for the same. All proposals so approved by the Controlling Authority shall be considered for notification after 10 days from the date of approval.
4. The Director of Minor Minerals shall have to concur in at least 10% of the cases approved by the Controlling Authority within 10 days of the date of approval by the Controlling Authority and while doing so, may modify the proposed MGQ and MAC indicating the reasons for the same.
5. The notice inviting applications in form of technical bids for grant of quarry lease shall be uploaded in the e-auction portal by the Competent Authority specifying the
 - i. the particulars of the area identified and demarcated using total station and differential global positioning system (DGPS) divided into forest land & other categories of land owned by the Government and private land.
 - ii. the minimum guaranteed quantity of the minor mineral to be extracted in a year by the applicant.
 - iii. the minimum amount of additional charge payable for the same as determined under Rule 27 (15) of OMMC Rules, 2016
 - iv. the dateline for submission the application.
 - v. the date of opening of applications (technical bids).
 - vi. the date of conducting the auction.
6. In case the Mining Plan or Environment Clearance for the proposed lease has been obtained by the Competent Authority, this fact, along with the cost of obtaining thereof shall be recoverable from the selected bidder which shall also be mentioned in the notice.
7. Subject to other provisions for settlement of quarry lease, the intending applicant may submit the technical bid for grant of quarry lease for such area or areas to the Competent Authority in the format of Form – M using the online electronic auction platform adopted by the Government and uploading the following documents and particulars, stated hereunder: —
 - i. Treasury challan showing deposit of one thousand rupees (non-refundable) towards the application fee;
 - ii. An affidavit stating that no mining due payable under the Act and the rules made thereunder, is outstanding against the applicant;
 - iii. Proof of payment of earnest money equivalent to five percentum of the minimum amount of additional charges specified in the notice and the amount of royalty, both calculated on the basis of minimum guaranteed quantity for one whole year for the minimum guaranteed quantity of minor mineral to be extracted in one full year; and
 - iv. Income Tax Return of previous financial year showing annual income for amount not less than the amount of additional charge offered and the royalty payable for the minimum guaranteed quantity for one whole year or Bank guarantee valid for a period of eighteen months for the amount not less than the amount as above and

also submitting the application in a sealed cover in Form- M accompanied by the above said documents and particulars.

8. No person shall be eligible to participate in the auction process for grant of quarry lease, unless such person is an Indian national or company as defined in clause (20) of Section 2 of the Companies Act, 2013, (18 of 2013) or partnership firm as defined in Section 4 of the Indian Partnership Act, 1932;

Explanation: - a person shall be deemed to be an Indian national, -

- a. in the case of a partnership firm, only if all the partners of the partnership firm are citizens of India: and
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- b. in the case of an individual, only if he is a citizen of India.

Also, 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.

9. The auction shall be an ascending forward auction conducted in the e-auction platform.
10. The technical bids received physically and through online will be opened as per the schedule notified under Rule 27 (2) of OMMC Rules, 2016 and through its amendment from time to time in presence of the bidders (applicants).
11. In case of a conflict between documents submitted electronically and document submitted physically, the documents submitted physically shall prevail. However, bids submitted physically shall not be accepted in absence of the corresponding online submission.
12. The technical bids shall be scrutinized by a Technical Committee constituted by the Government under the Chairmanship of respective Controlling Authority and only those bidders who are found to be eligible in accordance with the terms and conditions of eligibility as prescribed under Rule 27 (4A) of the Rule 27 (2) of OMMC Rules, 2016 and through its amendment from time to time, shall be declared as "Technically Qualified Bidders" (TQB) and shall be allowed to participate in forward auction.
13. The forward auction shall be conducted electronically for a duration of 2 (two) hours commencing from the time as would be notified and the Technically Qualified Bidders shall submit their offer of additional charge, which needs to be in excess of the minimum additional charge notified under Rule 27(2) of OMMC Rules, 2016 and through its amendment from time to time by any multiple of increment as would be fixed for the forward auction.
14. Forward auction shall be conducted subject to the condition that at least two bidders are found technically qualified.
15. Subject to the provisions of OMMC Rules, 2016 and through its amendment from time to time, the technically qualified bidder, who quotes the highest rate of additional charge will be declared as selected bidder.
16. The auction process shall be annulled if none of the technically qualified bidders submits an offer of additional charge above the notified minimum additional charge.
17. The selected bidder shall be intimated by the Competent Authority within seven



days in Form-F about the selection and terms and conditions of the lease.

18. Within fifteen days of such intimation, the selected bidder shall be required to convey his acceptance of the terms and conditions and to deposit an amount which shall be calculated in such a way that it shall be equivalent to one-fourth of the total amount of royalty and additional charge and the amount of contribution payable to the District Mineral Foundation on the annual minimum guaranteed quantity, taken together, reduced by the amount of earnest money, which, along with the earnest money, shall be held as interest-free security deposit.
19. The selected bidder shall also deposit the costs of obtaining the mining plan and environmental clearance approvals, in case those have been obtained by the Competent Authority (non-refundable) before executing the lease deed.
20. In the event of default by the selected bidder, the Competent Authority may issue intimation as specified in Rule 27(6) of OMMC Rules, 2016 and through its amendment from time to time to the next highest bidder to meet the highest additional charge offered by the highest bidder, who shall then be required to convey his acceptance and to make the security deposit calculated in the manner mentioned in Rule 27 (7) of OMMC Rules, 2016 and through its amendment from time to time within 7 days of receipt of intimation.
21. If the second highest bidder does not convey the acceptance within the time stipulated for such acceptance, the e-auction will be annulled and fresh notice inviting application for grant of quarry lease shall be issued.
22. Immediately after compliance of the foregoing provisions by the selected bidder, the earnest money of the unsuccessful bidders shall be refunded and the bank guarantees, if any, furnished by them, shall stand discharged.
23. The selected bidder shall be required to execute quarry lease in Form-N within three weeks from the date of intimation of his selection, if the approval of the mining plan and environment clearance has been obtained before auction, and in other cases, three weeks from the date of receipt of statutory documents in all i.e. mining plan, environment clearance, Consent to Establishment (CTE) and Consent to Operate (CTO) failing which, the intimation shall stand cancelled and the security deposit shall stand forfeited.

Provided that the Controlling Authority may, for genuine and sufficient reasons, extend the said period for not more than three months, if it is satisfied that the delay in execution of lease deed is not due to reasons attributable to the selected bidder.

24. Security deposit shall be refunded after expiry of the lease period if the lessee has fulfilled all conditions of lease and in case of violation of any of the conditions of lease, the security deposit shall be forfeited in whole or in part by the Competent Authority.
25. The minimum amount of additional charge to be quoted shall be such as the Competent Authority, in consultation with the Controlling Authority, decide and specify in the notice inviting applications for grant of quarry lease:

Provided that the minimum amount of additional charge so fixed should not be less than 5% of the rate of royalty.

26. The Controlling authority as defined in Schedule-III shall have power to cancel the bid duly recording the reasons thereof, if he is not satisfied with the publicity, participation of bidders and amount of additional charge quoted.
27. Where the lessee, who has quoted the highest rate of additional charge, dies after deposit of the amount specified under Rule 42 of OMMC Rules, 2016 or after execution of lease deed by him, such deposit or deed shall be deemed to have been made or executed by the legal heir or legal representative, if they so like.

By order of Addl. Chief Secretary


04.05.2023

Special Secretary to Government.

Memo No. 4565 /SM Dt 04.05.2023

copy submitted to DoMG/DoMM for information and necessary action.


04.05.2023

Special Secretary to Government

Memo No. 4566 /SM Dt 04.05.2023

Copy submitted to All Collectors for information and necessary action.


04.05.2023

Special Secretary to Government

Memo No. 4567 /SM Dt 04.05.2023

Copy submitted to Additional Secretary to Revenue & DM department for information and necessary action.


04.05.2023

Special Secretary to Government

Memo No. 4568 /SM Dt 04.05.2023

Copy submitted to All DDMs/MOs/Sub Collectors/ Tahasildars for information and necessary action.


04.05.2023

Special Secretary to Government

