# AUCTION OF COAL MINES FOR SALE OF COAL

## Under Mines and Minerals (Development and Regulation) Act, 1957

## & Coal Mines (Special Provisions) Act, 2015

# Discussion Paper on Key Terms & Conditions

**January 14, 2020**

सत्यमेव जयते
**Ministry of Coal**
Government of India

# Table of Contents

# Chapter 1: Overview

The Mines and Minerals (Development and Regulation) Act, 1957 (**"MMDR Act, 1957"**) and the Coal Mines (Special Provisions) Act, 2015 (**"CM(SP) Act, 2015"**) and the Rules made thereunder provide enabling provisions for auction of coal mines for sale of coal (commercial mining). As per recent amendment in the Foreign Direct Investment (FDI) policy, for sale of coal, 100% FDI is allowed under automatic route for coal mining activities including associated processing infrastructure.

On January 10, 2020, the Mineral Laws (Amendment) Ordinance, 2020 ("**Ordinance**") has been promulgated for amendment in the CM(SP) Act, 2015 and MMDR Act, 1957. By removing the restriction on prior experience in coal mining, the Ordinance enables wider participation in auction of coal mines. Further, the Ordinance also enables auction of unexplored and partially explored coal blocks for mining through prospecting license-cum-mining Lease (PL-cum-ML).

In furtherance to the above initiatives being taken by Government of India, Ministry of Coal ("**MoC**") is considering to auction coal mines for sale of coal (commercial mining) under the provisions of CM(SP) Act, 2015 and MMDR Act, 1957 and the Rules made thereunder. There shall be no restriction on the sale and/ or utilisation of coal produced from the coal mine and the Successful Bidder shall be free to sell coal in any manner.

Accordingly, a Discussion Paper entailing key terms & conditions of the auction process has been prepared for comments of the stakeholders. Auction of coal mines for sale of coal is proposed to be held in multiple tranches. A tentative list of mines proposed to be auctioned along with mine-specific details is provided at https://coalblock-is.cmpdi.co.in/pages/dashboard.php. Stakeholders concerned are requested to submit/indicate the following by 1600 hours on January 31, 2020:

a) submit their comments and suggestions, if any, on the email id: nomauthority.moc@nic.in with the subject "*Comments on the Discussion Paper – Auction of mines for Sale of Coal*"
b) submit any mine-specific feedback/ query, through the "Add Feedback/Query" option provided on the abovementioned link
c) indicate their preferences for the mines to be considered for auction under the first tranche on the email id: nomauthority.moc@nic.in.

# Chapter 2: Eligibility Criteria & Auction Process

## I. Eligibility Criteria

**CM(SP) Act, 2015:** As per Section 4(2) of the CM(SP) Act, 2015, following entities shall be eligible to participate in auction of coal mine for sale of coal:

a) a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be; or
b) a company or a joint venture company formed by two or more companies, incorporated in India.

**Additional Conditions for Prior Allottee:** In the event the Bidder is a Prior Allottee, then such Bidder must also meet the following conditions for being eligible to participate in the tender process:

a) The Bidder who is a Prior Allottee must have paid the additional levy within the time period prescribed under Rule 18 of the Rules. It is clarified that if a Prior Allottee has not made payment of the applicable additional levy within the time prescribed under Rule 18 of the Rules, then such Prior Allottee, its promoter or any of its company of such Prior Allottee shall not be eligible to participate in the auction process either directly or indirectly, including without limitation as a JV Partner of a joint venture, or through any Affiliate.
b) The Bidder who is a Prior Allottee, who is convicted of an offence relating to coal block allocation and sentenced with imprisonment for more than 3 (three) years, shall not be eligible to participate in the auction.

**MMDR Act, 1957:** As per Section 11A of MMDR Act, 1957 following entities shall be eligible to participate in auction of coal mine for sale of coal:

a) a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be; or
b) a company or a joint venture company formed by two or more companies, incorporated in India.

## II. Bid Parameter

The bidders would be required to bid for a percentage share of revenue payable to the Government. The floor price shall be 4% of the revenue share. Bids would be accepted in multiples of 1% of the revenue share till the percentage (%) of revenue share is up to 10% and thereafter bids would be accepted in multiples of 0.50% of the revenue share.

## III. Auction Process

**Two Stage Auction Process:** The auction would be conducted on an electronic platform through a two stage process comprising of:

a) **Technical Bid** in which the Bidders would be required to provide details regarding compliance with the Eligibility Conditions; and
b) **Financial Bid** comprising of: (i) the Initial Price Offer (IPO); and (ii) the Final Price Offer (FPO). The IPO shall be above the floor price. The IPO is required to be submitted along with the Technical Bid. The Financial Bid will comprise of two rounds. In the first round the IPO of the Technically Qualified Bidders would be opened and ranked on the basis of descending order

for determination of the Qualified Bidders as provided below. The Qualified Bidders shall be eligible to participate in the electronic auction and submit their FPO.

**Limitation on number of Bids:** A Bidder shall submit only 1 (one) bid for a particular coal mine. No Affiliate(s) of such Bidder shall submit a bid for the said coal mine. In case an Affiliate(s) of a Bidder also submits a bid for the said coal mine, the bids submitted by the Bidder and its Affiliate(s) will be rejected.

Affiliate with respect to a Bidder shall mean a person who, directly or indirectly: (1) Controls such Bidder; (2) is Controlled by such Bidder; (3) is under common Control with such Bidder; (4) is an associate company of such Bidder; or (5) is a subsidiary company of such Bidder.

In such context, the terms "associate company", "Control" and "subsidiary company" shall have the meaning ascribed thereto in the Companies Act, 2013, as amended from time to time.

***Illustration:*** A company X and its affiliate Y are intending to submit their bid for coal mine A. Either X or Y can submit its bid for Coal Mine A i.e. both X and Y are not allowed to submit their bid for Coal Mine A. However, if both X and Y submit their bid for Coal Mine A, then bids of both X and Y would be rejected.

**Determination of Qualified Bidder:** The Bidders who meet all the terms and conditions prescribed in the Tender Document (the **"Technically Qualified Bidders"**) shall be ranked in a descending order on the basis of the respective IPO.

The IPO which are equal shall be assigned the same rank. Thereafter the **Qualified Bidders** i.e. the Bidders who shall be qualified for participating in the electronic auction and shall be eligible to submit a FPO, shall be determined in the following manner:

a) If there are 2 or 3 Technically Qualified Bidders in IPO round, all the Technically Qualified Bidders shall be the Qualified Bidders.
b) If there are 4 to 6 Technically Qualified Bidders in the IPO round, only the last ranked Technically Qualified Bidders shall be eliminated and the remaining Technically Qualified Bidders shall be the Qualified Bidders.
c) If there are 7 or more Technically Qualified Bidders in IPO round, one third of Technically Qualified Bidders in IPO round (who ranked last), subject to a maximum of 3, shall be eliminated, and remaining Technically Qualified Bidders shall be the Qualified Bidders. While calculating the one third, fractions will be ignored.

*Provided however* in the event that the total number of Technically Qualified Bidders is less than 2, then no Technically Qualified Bidder(s) shall be considered to be Qualified Bidder(s) and the first attempt of auction for the coal mine shall be annulled.

**Determination of Preferred Bidder:** The applicable floor price for electronic auction shall be the highest IPO received from the Qualified Bidders. The Qualified Bidders shall be permitted to place their FPO on the electronic auction platform, which is higher than the applicable floor price. The Qualified Bidder that submits the highest FPO during the electronic auction process shall be declared as the **"Preferred Bidder"**.

**Determination of Successful Bidder:** The Preferred Bidder shall be declared as the **"Successful Bidder"** in accordance with the provisions of the Act and the Rules. Thereafter, the Coal Mine Development and Production Agreement (CMDPA) shall be executed with the Successful Bidder and an allocation order (Vesting Order) shall be issued to the Successful Bidder in accordance with applicable law. Upon the execution of the Vesting Order, the Successful Bidder shall be entitled to a prospecting licence or a mining lease, as applicable, by the concerned State Government in accordance with the Mines and Minerals (Development and Regulation) Act, 1957.

# Chapter 3: Payments/Guarantees

## I. Upfront Amount

The Upfront Amount shall be 0.5% of the value of estimated resources of the coal mine. Value of estimated resources shall be equal to the product of (i) mineral resources in the coal mine, and (ii) applicable price based on National Coal Index.

The Upfront Amount shall be payable by the Successful Bidder in 4 equal instalments as provided below:

| Instalment | Fully Explored Mines | Unexplored/ Partially Explored Mines |
|---|---|---|
| **1st instalment** | Within 40 days after execution of CMDPA i.e. prior to issuance of the Vesting/ Allocation Order | Within 40 days after in-principle approval of mine plan |
| **2nd instalment** | Within 15 business days after the date of execution of mining lease | Within 15 business days after the date of execution of mining lease |
| **3rd instalment** | Within 15 business days after the date of grant of mine opening permission | Within 15 business days after the date of grant of mine opening permission |
| **4th instalment** | Within 15 business days after the date of start of coal production | Within 15 business days after the date of start of coal production |

The Upfront Amount shall be adjusted in full against the monthly payments to the State Government, on commencement of production.

## II. Bid Security

Bidders shall be required to submit Bid Security in the form of an unconditional and irrevocable bank guarantee for an amount as provided below:

**Fully Explored Mines:** 20% of Upfront Amount

**Unexplored/ Partially Explored Coal Mines:** 25% of the estimated exploration expense

## III. Performance Security

**Fully Explored Mines:** The amount of performance security shall be aggregate of:

a) 50% of one year royalty to be computed on the basis of peak rated capacity of the coal mine as per the approved mine plan; and
b) 50% of one year revenue to the Government to be computed on the basis of peak rated capacity of the coal mine as per the approved mine plan multiplied by the FPO based on which the Successful Bidder has been selected and the price of coal based on National Coal Index i.e.

Performance Security = (50% x One year Royalty) + (50% x PRC x FPO x Coal price based on National Coal Index)

In case, the approved mine plan of the coal mine is not available, Performance Security shall be estimated on the basis of an indicative PRC, as may be provided in the Tender Document. Upon approval of the mine plan, the Successful Bidder shall submit a revised Performance Security on the basis of approved mine plan.

***Illustration***: Performance Security shall be estimated in the following manner:

| | |
|---|---|
| PRC (MTPA) | 10 |
| Grade of Coal | G11 |
| Coal price based on National Coal Index (Rs./ tonne) | 1145 |
| Rate of Royalty | 14% |
| One Year Royalty (Rs. crore) | 160.30 |
| **50% of One Year Royalty (Rs. crore)** | **80.15** |
| FPO | 10% |
| One Year Revenue to the Government (Rs. crore) | 114.50 |
| **50% of One Year Revenue to the Government (Rs. crore)** | **57.25** |
| **Total Performance Security (Rs. crore)** | **137.40** |

**Validity:** The Performance Security shall remain valid (a) until the expiry of the period for which Mining Lease (including renewed Mining Lease) has been granted or will be granted, or (b) until extractable reserves are remaining in the coal mine, whichever is earlier.

**Unexplored/ Partially Explored Coal Mines:**

a) Performance Security shall be equal to 25% of the estimated exploration expense till in-principle approval of mining plan by MoC.
b) The amount of Performance Security shall be revised after in-principle approval of the mining plan by MoC, which shall be estimated in the same manner as specified for fully explored mines.

The Performance Security shall be submitted by the Successful Bidder in the form of a bank guarantee, prior to issuance of Vesting Order within such time as may be stipulated by the Nominated Authority.

## IV. Fixed Amount

**CM (SP) Act, 2015:** The Successful Bidder shall pay a Fixed Amount for the value of Land and Mine Infrastructure; cost of preparation of geological report borne by the Prior Allottee; cost incurred by CMPDIL and other Government agencies in deriving detailed geological boundary coordinates and in preparing geological report and mining plan (as applicable); cost of obtaining all statutory licenses, permits, permissions, approvals, clearances or consents relevant to the mining operations, borne by the Prior Allottee and cost incurred by CMPDIL for preparation of mine dossier including block boundary and financial valuation. If the Successful Bidder is a Prior Allottee, then, the compensation payable to such Successful Bidder shall be set off or adjusted against the Fixed Amount payable by such Successful Bidder.

**MMDR Act, 1957:** The Successful Bidder shall pay a Fixed Amount for the cost incurred by CMPDIL and other Government agencies in deriving detailed geological boundary coordinates and in preparing geological report and mining plan (as applicable) and cost incurred by CMPDIL for preparation of mine dossier including block boundary and financial valuation.

The Fixed Amount is required to be deposited by the Successful Bidder with the Nominated Authority prior to issuance of Vesting Order within such time as may be stipulated by the Nominated Authority.

## V. Monthly Payments

The Successful Bidder shall be required to make monthly payments with respect to the coal produced from the coal mine:

Monthly payments shall be made on the basis of the FPO (% revenue share quoted) and monthly revenue. The revenue share for this purpose shall be determined as product of: (i) FPO (ii) quantity of coal produced during the month and (iii) price of relevant grade(s) of coal based on National Coal Index.

All payments required to be made by the Successful Bidder shall be made net of all applicable taxes. In the event, taxes are payable, the Successful Bidder shall gross-up the amount payable and make payment of the aggregate amount. In addition to the aforementioned payments, any royalty payable under applicable laws shall be payable additionally.

***Illustration:*** Assuming that the winning bidder has quoted a revenue share of 10%, the monthly revenue share payable to the Government shall be estimated in the following manner:

| Grade of Coal | Monthly Coal Production (Mt) | Price of coal (Rs./tonne) | Total Revenue (Rs. crore) | Revenue Share (Rs. crore) |
|---|---|---|---|---|
| G11 | 0.50 | 1,145 | 57.25 | 5.73 |
| G12 | 0.70 | 1,063 | 74.41 | 7.44 |
| G13 | 0.60 | 980 | 58.80 | 5.88 |
| **Total** | **1.80** | | **190.46** | **19.05** |

**Incentive for early commencement of coal production:** The Successful Bidder shall be incentivised for commencing coal production from the coal mine earlier than the scheduled commencement of coal production (as per Efficiency Parameters), in the following manner:

a) In case the commencement of coal production is at least 2 years earlier than the scheduled commencement, the Successful Bidder shall make payments on the basis of 80% of the FPO on such quantity till one year prior to scheduled commencement. Thereafter, for the one year period till scheduled commencement, the Successful Bidder shall make monthly payments on the basis of 90% of the FPO.
b) In case the commencement of coal production is at least a year earlier than the scheduled commencement, the Successful Bidder shall make monthly payments on the basis of 90% of the FPO on such quantity till scheduled commencement.
c) From the date of scheduled commencement of coal production, the Successful Bidder shall make monthly payments on the basis of 100% of the FPO.

***Illustration***: In the event the scheduled date of commencement of coal production was July 31, 2024 and the Successful Bidder commences coal production by January 31, 2022, the Successful Bidder shall make monthly payments in the following manner:

a) On the basis of 80% of the FPO on the quantity of coal produced during January 31, 2022 to July 30, 2023;
b) On the basis of 90% of the FPO on the quantity of coal produced during July 31, 2023 to July 30, 2024.
c) On the basis of 100% of the FPO on the quantity of coal produced from July 31, 2024.

## VII. National Coal Index

National Coal Index is being developed by MoC with the main principle that at any given month one has to compute a weighted combination of monthly prices (or unit values) of coal in various channels of transaction, and express this weighted sum as a percentage of the corresponding sum at a chosen base period. The channels consist of combinations of different types of transaction (import/ auction/ notified price), types of coal (coking or non-coking), quality grades and the different coal producers. The weights, which are positive fractions that sum up to one, represent the importance given to different channels. The National Coal Index may come with four sub-indices (one for coking coal and three for the grade categories of non-coking coal), and further sub-indices for the three types of transaction (notified price, auction and import). For the auction of a particular coal mine, either the overall index or a sub-index (or a combination of sub-indices) that is most appropriate for the coal mine may be used.

# Chapter 4: Other Terms & Conditions

## I. Sale and/or Utilisation of Coal

There shall be no restriction on the sale and/ or utilisation of coal from the coal mine. The Successful Bidder shall be free to sell coal in any manner as may be decided by the Successful Bidder including sale to affiliates and related parties, utilise coal for captive consumption and export of coal.

## II. Flexibility in Coal Production

The Successful Bidder shall produce coal not below 50% of the scheduled production as per approved mine plan in a year subject to the condition that the Successful Bidder shall not produce coal less than 70% of the scheduled production as per approved mine plan in any block of three years. The 3 year block shall be counted from the first financial year of scheduled commencement of production in the coal mine.

**Revenue payable to the Government in case of shortfall in coal production:** In the event the annual coal production is less than 50% of the scheduled production as per approved mine plan, the Successful Bidder shall make payment towards such shortfall in coal production in such a manner that the annual revenue to the Government is towards at least 50% of the scheduled coal production. Statutory levies such as DMF, Royalty, NMET etc. shall also be payable on such shortfall quantity.

Further, in the event the coal production for a block of 3 years is less than 70% of the scheduled production as per approved mine plan, the Successful Bidder shall make payment towards such shortfall in coal production (above 50% and less than 70%) such that the revenue to the Government for a block of 3 years is towards at least 70% of the scheduled coal production. Statutory levies such as DMF, Royalty, NMET etc. shall also be payable on such shortfall quantity.

***Illustration***: Assuming the Successful Bidder has won a coal mine having Grade G11 (Price based on National Coal Index being Rs. 1145/tonne) at a FPO of 7%, the revenue payable to the Government in case of shortfall in annual coal production shall be estimated as provided below:

| Year | Scheduled Production as per Approved Mine Plan (MT) | Actual Production (MT) | Actual Production as a % of Scheduled Production | Shortfall in Production on an Annual Basis (MT) | Revenue Payable on Shortfall Quantity (Rs. crore)* |
|---|---|---|---|---|---|
| | (A) | (B) | (B/A) | (C) | (C x FPO x Price based on National Coal Index) |
| Y1 | 2.0 | 1.0 | 50.00% | - | - |
| Y2 | 3.0 | 1.0 | 33.33% | 0.50 | 4.01 |
| Y3 | 4.0 | 2.0 | 50.00% | - | - |
| **Total** | **9.0** | **4.0** | **44.44%** | **0.50** | **4.01** |

**Additionally, statutory levies such as DMF, NMET, royalty etc. shall be payable on the shortfall quantity.*

The revenue payable to the Government in case of shortfall in coal production over a block of 3 years shall be estimated as provided below:

| | | |
|---|---|---|
| Scheduled Production over 3 year block (MT) | (A) | 9.0 |
| Actual Production over 3 year block (MT) | (B) | 4.0 |

| | | |
|---|---|---|
| Actual Production as a % of Scheduled Production | (B/A) | 44.44% |
| 70% of Scheduled Production (MT) | (C = 70% of A) | 6.30 |
| Shortfall in 3 year Production (MT) | (D = C - B) | 2.30 |
| Total Shortfall in 3 year Revenue (Rs. crore) | (D x FPO x Price based on National Coal Index) | 18.43 |
| Revenue already paid towards shortfall in production on an annual basis (Rs. Crore) | (E) | 4.01 |
| **Net shortfall in revenue payable (Rs. crore)*** | **(D - E)** | **14.42** |

**Additionally, statutory levies such as DMF, NMET, royalty etc. shall be payable on the shortfall quantity.*

## III. Mine Plan

**Production Schedule for Fully Explored Coal Mines:** Along with the tender document, MoC would provide a tentative year-wise coal production schedule for each fully explored coal mine being auctioned. The Successful Bidder shall be required to prepare a mine plan with year-on-year coal production schedule equal to or more than the tentative year-wise production schedule provided by MoC.

**Upward Revision in Mine Plan & Incentive:** The Successful Bidder may revise the already approved mine plan for extraction of more coal on a year-on-year basis and obtain required approvals for such revised mine plan. Such revision in mine plan should be in accordance with the applicable law. For coal production under the revised mine plan, the Successful Bidder shall be entitled for following incentives:

| S. No. | Coal production in excess of quantity indicated in original mine plan | Revenue Share (as % of Revenue Share quoted) |
|---|---|---|
| 1 | As per the production schedule of original mine plan and up to excess production of 10% of such schedule | No change |
| 2 | Production in excess of 10% of scheduled production of original mine plan and up to excess production of 20% of such schedule | Payable on the basis of 90% of the FPO on excess production |
| 3 | Production in excess of 20% of scheduled production of original mine plan | Payable on the basis of 80% of the FPO on excess production |

The excess quantity for the purpose of determination of incentive shall be calculated only after adjustment of any shortfall in coal production during the previous year.

***Illustration***: Assuming the Successful Bidder has won a fully explored coal mine having Grade G11 (Price based on National Coal Index being Rs. 1145/tonne) at a FPO of 7% and obtains the approval for a mine plan with the following production schedule:

| Year | Production Schedule as provided by MoC (MTPA) | Approved Mine Plan of the Bidder (MTPA) |
|---|---|---|
| Y1 | 3.0 | 3.0 |
| Y2 | 3.5 | 3.5 |
| Y3 | 4.0 | 4.5 |
| Y4 | 4.5 | 4.5 |
| Y5 | 5.0 | 6.0 |
| Y6-Y27 | 6.0 | 7.0 |
| Y28 | 5.0 | 5.5 |
| Y29 | 4.0 | 4.5 |

| Year | Production Schedule as provided by MoC (MTPA) | Approved Mine Plan of the Bidder (MTPA) |
|---|---|---|
| Y30 | 3.0 | 3.5 |
| **Total** | **164.0** | **189.0** |

In the event the Successful Bidder further revises the mine plan and obtains the required approvals, the revenue payable to the Government on excess production shall be as calculated below:

| Year | Scheduled Production as per earlier approved Mine Plan (MTPA) | Scheduled Production as per revised and approved Mine Plan (MTPA) | Actual Production Schedule (MTPA) | % Excess Production as compared to Scheduled Production as per earlier approved Mine Plan | Applicable % of FPO for Excess Production |
|---|---|---|---|---|---|
| | (A) | (B) | (C) | ((C-A)/A) | (D) |
| Y1 | 3.0 | 3.50 | 3.00 | 0.00% | 100.00% |
| Y2 | 3.5 | 4.00 | 2.00 | 0.00% | 100.00% |
| Y3 | 4.5 | 5.00 | 2.50 | 0.00% | 100.00% |
| Y4 | 4.5 | 5.00 | 4.50 | 0.00% | 100.00% |
| Y5 | 6.0 | 6.50 | 6.50 | 8.33% | 100.00% |
| Y6-Y27 | 7.0 | 8.00 | 8.00 | 14.29% | 90.00% |
| Y28 | 5.5 | 6.00 | 6.00 | 9.09% | 100.00% |
| Y29 | 4.5 | 5.00 | 4.50 | 0.00% | 100.00% |
| Y30 | 3.5 | 4.50 | 4.50 | 28.57% | 80.00% |

## IV. Change in Control and Transfer of the Coal Mine

**Fully explored mines:** Any change in control of the Successful Bidder or transfer of the coal mine shall be allowed only after attainment of the PRC by the Successful Bidder. Such change in control of the Successful Bidder and/or transfer of the coal mine shall be subject to the conditions stipulated in the tender document.

**Unexplored/ Partially explored mines:** Change in control of the Successful Bidder or transfer of the coal mine shall be allowed as provided below and shall be subject to the conditions stipulated in the tender document:

a) Prior to submission of application for mining lease, any change in control of the Successful Bidder or transfer of the coal mine shall be allowed after one year provided that at least 15% of the estimated exploration expense has been incurred by the Successful Bidder.
b) After submission of application for mining lease, any change in control of the Successful Bidder or transfer of the coal mine shall be allowed only after attainment of the PRC by the Successful Bidder.

## V. Other Conditions for Unexplored/ Partially Explored Coal Mines

Prospecting operations/ exploration shall be subject to following conditions:

a) The Successful Bidder shall conduct geological prospecting/ exploration of the area as per the **Minimum Work Program** provided by the Nominated Authority, so as to ascertain evidence of mineral contents and shall submit periodic reports to the Nominated Authority. All reports, studies and other documentation related to the geological prospecting/ exploration of the area shall be submitted to the Nominated Authority and the State Government.

b) After completing the prospecting operations as per the Minimum Work Program and preparing the Geological Report, the Successful Bidder may either i)relinquish the coal mine (subject to the approval of Nominated Authority) after submitting all reports, studies and other documentation related to the geological prospecting/ exploration of the area to the Nominated Authority and the State Government or ii) retain the coal mine and carry out mining operations after obtaining the required permissions/ approvals/ clearances etc in accordance with applicable law. Relinquishment of a part of the coal mine shall not be allowed.
*Provided however*, if the Successful Bidder fails to complete the prospecting operations as per the Minimum Work Program and does not prepare the Geological Report, the Performance Security submitted by the Successful Bidder shall be forfeited and the CMDPA and the prospecting license granted thereunder shall be terminated.

## VI. Exploitation of Coal Bed Methane

In case there is presence of coal bed methane (CBM) in the coal mine, the Successful Bidder may choose to commercially exploit the CBM present in the mining lease area. The lease/license in respect of CBM operations shall be governed by the Ministry of Petroleum & Natural Gas (MoPNG) under the provisions of the Oilfields (Regulation & Development) Act 1948 (ORD Act 1948) and Petroleum & Natural Gas Rules, 1959 (PNG Rules 1959).

In case the Successful Bidder decides to exploit the CBM present in the coal mining lease area, it shall be required to approach the Directorate General of Hydrocarbon (DGH), Ministry of Petroleum & Natural Gas (MoPNG) for its recommendation followed by the grant of CBM mining lease by respective State Government. The terms and conditions applicable to exploitation of CBM shall be governed by CBM Policy Notification No.O-12011/1/97/ONG.DO.IV dated 19$^{th}$ July 1997 by MoPNG, Policy Framework No. O-32011/4/2013/ONG-I dated 30$^{th}$ March 2016, Policy Framework No. O-19018/7/2016/ONG-I for Early Monetization of CBM of MoPNG dated 11$^{th}$ April 2017, as amended and/or any other applicable policy/ guidelines/ conditions as may be prescribed by DGH/ MoPNG in this regard.

The key terms and conditions for the exploitation of CBM shall be as under:

a) **Sale of CBM:** The Successful Bidder would comply with the existing policies of the Government of India for utilization and pricing of natural gas. The Successful Bidder shall have marketing and pricing freedom to sell the CBM produced at Arm's Length Price in the domestic market in line with Para 7 of the Policy Framework No. O-32011/4/2013/ONG-I dated 30$^{th}$ March 2016.
b) **Applicable Revenue Share Percentage and Payments:** Monthly payments shall be made on the basis of the (i) FPO (% revenue share quoted during auction of coal mine) and (ii) monthly revenue from sale of CBM.
In the event market discovered price is less than the price notified by the Petroleum Planning Analysis Cell (PPAC) under the New Domestic Natural Gas Pricing Guidelines, 2014, the royalty and monthly payment shall be paid on the basis of the latter.
c) **Other Terms:**
    i. As a leaseholder, the Successful Bidder shall comply with the ORD Act 1948 and PNG Rules 1959, as amended, for CBM operations in the mining lease area.
    ii. The Successful Bidder will be required to pay royalty and requisite fees, levies and taxes as applicable from time to time to State/Central Government at prevailing rates at par with payments which are required to be made for CBM and as revised from time to time. Royalty and concessional royalty shall be levied as per para 5 of HELP resolution dated 30$^{th}$ March, 2017, para 2.3 of MoPNG resolution No. O-12015(11)/1/2019-ONG-II dated 28$^{th}$ February, 2019, Notification S.O. 367 (E) dated

14-01-2019 & S.O.1597(E) dated 11th April, 2019 or any notification in future issued/to be issued under section 6A of ORD Act 1948.

iii. Exemption from payment of customs duty on imports required for Petroleum Operations as per extant Government policy.
iv. Relinquishment of CBM mining lease will be co-terminus with coal mining lease.
v. CBM areas covered under the mining lease area will be utilized by the lessee in a manner so as to facilitate extraction of CBM prior to coal mining operations or simultaneously with coal mining operations to optimally develop and conserve CBM.
vi. All statutory requirements relating to operational safety shall be complied with by the Successful Bidder in accordance with the provisions of the relevant statutes and as may be prescribed by DGH/ MoPNG.
vii. The Successful Bidder shall conduct its operations in compliance with all Applicable Laws and notifications including as may be prescribed by DGH/ MoPNG, on protection of environment and wherever applicable, on conservation of forests and protection of wildlife.
viii. The Successful Bidder shall employ Good International Petroleum Industry Practices (GIPIP) and standards as also may be prescribed by DGH/ MoPNG, including advanced techniques, practices and methods of operation for the prevention of environmental damage in conducting its operations; and shall take necessary and adequate steps to:
    i. prevent environmental damage and, where some adverse impact on the environment is unavoidable, to minimize such damage and the consequential effects thereof on property and people;
    ii. ensure adequate compensation for injury to persons or damage to property caused by the effect of CBM operations;
    iii. minimise flaring of gas.

## VII. Efficiency Parameters

The conduct of mining operations at the coal mine shall be subject to the milestones listed in Annexure I (the **"Efficiency Parameters"**).

## VII. Foreign Direct Investment (FDI) in Coal Sector

FDI policy for coal sector has been amended and for sale of coal, it now allows 100% FDI under automatic route for coal mining activities including associated processing infrastructure. Associated Processing Infrastructure includes coal washery, crushing, coal handling, and separation (magnetic and non-magnetic). For detailed FDI Policy for coal sector, please refer the Press Note 4 (2019) issued by Department for Promotion of Industry and Internal Trade, Ministry of Commerce & Industry. The same may currently be accessed at: https://dipp.gov.in/sites/default/files/pn4_2019.pdf

# Annexure I: Efficiency Parameters

| Activities | Completion time from Date of Vesting (in Months) | Milestone (No.) | Fully Explored Mines | Unexplored/ Partially Explored Mines |
|---|---|---|---|---|
| | | | % of Performance Security to be appropriated | % of Performance Security to be appropriated |
| Prospecting Licence or Notification under section 4 of the CBA Act, 1957, as applicable | 3 | MS-1 | Not Applicable | |
| Completion of Drilling/ Exploration | 11 | | | |
| Preparation of Geological Report (GR) | 15 | | | 24 |
| Events after preparation of GR | | | | |
| Mining Lease Application | 18 | MS-2 | | |
| Submission of Mining Plan | 19 | | | |
| Approval of Mining Plan/Project Report | 21 | | 20 | 76 |
| **Total** | | | | **100** |
| Application of Previous approval | 22 | MS-3A | | |
| Forest Clearance Application | 22 | | | |
| Environment Clearance Application | 23 | | | |
| Forestry Clearance(FC)-stage 1 | 33 | | 9 | 11 |
| Forestry Clearance(FC)-stage 2 | 39 | MS-3B | 8 | 10 |
| Wild life Clearance | 39 | MS-4 | | |
| Approval under PESA | 39 | | | |
| Environment Clearance (EC) | 39 | | 16 | 20 |
| Approval for Nallah /River Diversion | 45 | MS-5 | | |
| Approval for diversion of Power line/Rail/Road | 45 | | | |
| Permission to draw Water | 45 | | | |
| Permission to draw Power | 45 | | | |
| Consent to Establish /Operate | 51 | | | |
| Grant of Mining Lease or order by the Central Government under section 11 of CBA Act,1957, as applicable | 55 | | 19 | 24 |
| Land Acquisition | 60 | MS-6 | | |
| possession of land and R&R to reach rated capacity as per approved mining plan | 60 | | 13 | 16 |
| Intimation to DGMS for Mine opening | 62 | MS-7 | | |
| Approval for use of Explosive & Licence for Storage of Petroleum | 62 | | | |
| Permission under Factories Act,1948 | 62 | | | |
| Permission for use of Radio Frequency Communication System | 62 | | | |
| Labour related Permissions | 62 | | | |
| Escrow Account | 62 | | | |
| Application for Opening permission | 63 | | | |
| Mine Opening Permission | 66 | | 15 | 19 |
| **Total** | | | **100** | **100** |

**Note:**

1. Only the main activity within the Milestone Number, against which percentage of appropriation of performance security has been assigned in the last column (‘Main Activity”), will be monitored for the purpose of appropriation of performance security.

2. Activities other than Main Activity, against which percentage of appropriation of performance security has not been assigned, will be monitored for the purpose of early development of mines. However, in case of default in such activities, penalty will not be imposed.

3. If any of the above activities/ milestones is not applicable for the Coal Mine, the corresponding period for completion shall not be reckoned for appropriation of performance security. In case of coal mines where Geological Report is already available at the time of vesting, MS-1 shall not be applicable for such mines and Milestones shall be reckoned from MS-2 in such case.

4. In bona fide cases of delays not attributable to the Successful Bidder and based on the recommendation of the Scrutiny Committee, a grace period of maximum 30% for each Main Activity/ milestone may be allowed subject to the condition that overall grace period shall not exceed 15% of the time granted for the last milestone of development (i.e. MS-7).