

Terms & Conditions of e-Auction Scheme, 2007 for 'Forward e-Auction **(For sale of coal over a long period)**

Introduction:

In terms of New Coal Sales Policy circulated vide Office Memo. No. **23011/4/2007-CPD dated 18.10.2007 of MOC, a new scheme called " E-Auction Scheme 2007"** for Forward e-Auction has been formulated and circulated for implementation with due approval of CIL Board.

Objective:

Coal distribution through forward e-Auction is aimed to provide access to coal for such coal consumers who wish to have an assured supply over a long period, say one year, through e-auction mode so as to plan their operation etc.

The purpose of forward e-Auction is to provide equal opportunities to all intending coal consumers to purchase coal for own consumption through single window services as per requirement and at a price determined by themselves through the process of on-line bidding.

Forward e-Auction will facilitate all the consumers of coal across the country with wide ranging choice for booking coal on-line, enabling them to buy coal through a simple, transparent and consumer-friendly system of marketing of coal.

Terms & Conditions

With reference to Para 19 of the e-Auction Scheme, 2007 for "Forward e-Auction", the detailed Terms & Conditions are given below :

1. Eligibility:

All consumers of coal located in India (viz. Proprietorship/partnership, firm registered in India, companies incorporated in India etc.) desiring supply over a long period can participate in Forward e-Auction for procurement of coal for own consumption and not for transfer or re-sale.

2. Registration:

2.1 To participate in Forward e-Auction, a consumer shall be required to register himself / itself with respective Service Provider nominated/appointed by CIL / Subsidiary Coal Company. For such registration, a consumer shall be required to complete all necessary formalities by making an application to the nominated/appointed Service providers of CIL / Coal Companies **in the prescribed format available on the web site of the respective service provider** along with certified copies of valid documents, including **(a) Income-tax return (for immediately completed preceding financial year), (b) PAN No., (c) valid Sales Tax/VAT registration certificate, (d) valid SSI/Industrial Registration Certificate, (e) valid Letter of recommendations issued by the concerned Ministry certifying existence, nature of operation, end use of coal in the unit ,(f) Banker's**

certificate for credit-worthiness and capital structure, **(g) valid NOC** from State Pollution Control Board, **(h) proof of ownership of land/lease hold for the unit from the concerned authority. (in case of private land purchased from the owner directly, copy of registered sale deed and in case of other, copy of transfer deed / lease deed agreement).** **(i) actual Sales Tax / VAT and / or Excise Duty paid during the last two years,** **(j) copies of electricity bills for the last six months , wherever applicable,** **(k) a Sworn-in-Affidavit before the First Class Magistrate certifying coal purchased will be for own consumption and would not be resold, transferred or exported** **(l) proof of existence of business entity like registered partnership deed / certificate of incorporation issued by the registrar of companies of the concerned state , wherever applicable,** **(m) a passport size photograph of the consumers.** The registration can be done on-line or at any front office of the service provider.

2.2 The consumer / bidder will be responsible for ensuring to keep the registration valid, and for the purpose, the consumer / bidder will keep all the documents mentioned in clause 2.1 valid throughout the period right from bidding upto completion of lifting. In the event of expiry of any of these documents, the registration will automatically become dormant and during the period of dormancy, the consumer / bidder will not be allowed to participate in bidding by the service providers and release of coal will be kept suspended by the Coal Company. Such suspension of release of coal will be treated as a failure on the part of consumer / bidder and the proportionate EMD equivalent to the failed quantity shall be forfeited. The registration will however be restored by the service provider and thereafter participation in the bidding will be allowed after submission of the valid document(s) / extension of the validity of the document(s) and coal releases / lifting will be allowed by the Coal Company.

The service provider will also remain vigilant and monitor the validity of all the documents and disallow the consumer to participate in bidding in case any of his documents becomes invalid.

2.3 After registration, all consumers / prospective bidders will have an auto-generated Unique User ID and a Password based on which they can log in on the Service Provider's web site. Details of registration process with Service Providers will be available in their respective web site.

2.4 The consumers / prospective bidder must get themselves registered with an approved certifying agency and obtain digital signature for their authentication / proving genuineness which would enable them to participate in e-Auction. The consumers / prospective bidders are required to contact their respective service provider in this regard for clarification and guidance, if required by them.

2.5 Only one registration will be done against one PAN number. However, for more than one coal consuming unit, having independent valid sales tax / VAT registration, more than one registration against one PAN Number can be considered. In such cases, the details of valid sales tax / VAT registration against each consuming unit will be indicated in each 'Photo Identity Card'.

3. Photo ID Cards:

The Service Provider shall issue "Photo Identity Card" to their registered bidders duly authenticating the identity & signature, indicating a "Unique Registration Number" allotted to them. The "Unique registration number" of the registered bidders shall be communicated to the Coal Companies by the Service Provider. The details of the Sales tax / VAT registration number as well as consumer status of the applicant unit shall also be duly **incorporated** in **each Photo Identity Card**..

4. Earnest Money Deposit (EMD):

4.1 All interested registered consumers shall be required to deposit in advance non-interest bearing EMD with respective service provider for such an amount as would cover 10% of the reserve price (of a forward e-Auction concerned) in terms of basic price of coal exclusive of taxes, duties and other charges as applicable before participating in a forward e-Auction. This may be paid upfront by way of Bank Draft / Bankers P.O or **by way of e-transfer**.

4.2 As long as EMD is available in the registered consumer's account with the Service Providers, the consumer can participate in a forward e-Auction conducted by any coal company of CIL through the particular Service Provider. In other words, it may be a global EMD for participating in e-Auction conducted by a Service Provider either for a spot e-auction or forward e-Auction. Consumers will be free to register themselves for forward e-Auction as well as spot e-auction with a Service Provider, whereas registered buyers other than consumer would be entitled to participate only in Spot e-auction.

5. Methodology:

5.1 Each forward e-Auction shall be for a period of 12 months consisting of 4 equal quarters of 3 months each. The 1st quarter of such forward e-Auction Year shall begin from the 1st month of the quarter following the quarter in which the e-Auction is conducted. The four quarters shall be fixed as January-March, April-June, July-September and October-December. In other words, forward e-Auction year shall be a rolling year consisting of 4 quarters each.

5.2 A consumer / bidder shall have the option of bidding minimum for any one quarter or up to all the four quarters in a forward e-Auction year.

5.3 Coal companies of CIL would draw programme for at least one forward e-Auction in each quarter which will be notified minimum one month in advance of the commencement of the e-auction year **on the Coal Company's Notice Board** as well as on Web Site and also published through print media for wide publicity. The programme shall be intimated to the respective Service Provider for hoisting the same at their web site also for information of all interested consumers.

5.4 The Service Provider shall conduct the forward e-Auction as per the program notified in the web site of the Service Providers on the scheduled date/s and time.

5.5 The date, time and period of e-Auction as notified in advance including closing time on portal of Service Provider shall be adhered to except in force majeure situations. However, the closing time of e-Auction will be automatically extended up to last Bid time, plus 5 minutes, so that opportunity is given to other Bidders for making an improved Bid on that item.

5.6 Before on-line bidding for price and quantity in the forward e-Auction, the bidder shall agree on-line to accept the condition that the coal purchased in the forward e-Auction shall be used for own consumption only and not for any other purposes. The bidder shall also agree on-line to all the other terms & conditions displayed along with the notice of forward e-Auction.

5.7 Before participating in e-Auction, bidders must satisfy themselves with the quality of coal being offered from a source. No complaints thereafter i.e. after the e-auction, will be entertained by the coal companies.

5.8 There will not be any joint/ third party sampling facility extended to any buyer.

5.9 Prospective Bidders are entitled to bid for the quantity to the extent of amount of EMD which is available with the Service Provider in the bidder's account at the time of bidding.

5.10 The bidder has to bid for a price equal to or above the reserve price so as to secure consideration in the concerned Forward e-auction.

5.11 In any forward e-Auction the buyer shall bid separately for each quarter of the forward e-Auction year for which coal is offered. The bidder shall offer his Bid price (per tonne) in the increments of Rs.10/- (Rupees ten) or multiple thereof during the normal e-Auction period. During the extended period, the bidder shall offer his Bid price in the increment of Rs.20/- (Rupees twenty) or multiple thereof.

5.12 Following criteria would be adopted in deciding the successful bidders:-

(a) Precedence will be accorded to the highest bid price in the descending order (H1, H2, H3 and so on) as long as the offered quantity is available for allocation.

(b) If two or more buyers bid the same highest price, precedence for allotment will be accorded to the buyer who has placed the bid for the higher quantity.

(c) In case two or more buyers bid the same price and the same quantity, precedence will be given to the buyer who has accorded his bid first with reference to time.

5.13 While maintaining the secrecy of Bidder's identity, the web site shall register and display on screen the lowest successful Bid price at that point of time. The system will not allow a Bidder to Bid in excess of his entitled quantity as per his EMD. However once a Bidder is out-bided by another (in part or full) the particular Bidder shall become eligible for making an improved Bid.

6. Conditions for despatches by Rail and Road.

6.1 There will be separate forward e-Auctions for despatches by rail and road mode (though conducted under same notice) even if forward e-Auction offer by rail and road mode is from the same source earmarking separate mode-wise quantities under the same forward e-Auction for that source. The minimum quantity for bidding shall be 1050 tonne (one thousand fifty tonne only) for a quarter for a source for supply by road mode. For supply by rail, the minimum quantity for bidding shall be one rake for a quarter for a source. The rake size shall be as per prevalent Railway rules. The quantity of coal in a rake shall be as indicated in the notice of forward e-Auction.

6.2 The Buyer should satisfy itself / himself about the Rake fit stations / destinations from the Railways before participation in e-Auction by rail. Non-acceptance of the programme, even after the option exercised under extant Railway rules, on account of rake-fit stations / destinations being not accepted by the Railways shall be treated as a failure of the Buyer leading to forfeiture of relatable EMD.

6.3 The consumer, while bidding shall quote their "Bid price" per tonne in Indian Rupee as base coal price on FOR/FOB colliery basis, exclusive of other charges like statutory levies, surface transportation charges, sizing/beneficiation charges, taxes, cess, royalty, SED, & any other charges as will be applicable at the time of delivery. These charges as well as freight etc. shall be on the Buyers' account. **Any increase in statutory charges / other charges will be notified / hoisted on web-site by the coal companies.**

7. Post E-Auction(Forward) Process:

7.1 Each successful bidder will be intimated through e-mail / SMS by the Service Provider on the same date after the closure of e-Auction. However, it will be the responsibility of the bidder to personally see and download the result displayed on website, on the same date after close of e-Auction.

7.2 Equivalent amount of EMD of the successful consumer / bidder corresponding to successful bid quantity, shall be blocked and will be transferred to Coal Company by the service provider along with the bid sheet in respect of successful consumer / bidders.

7.3 The successful bid quantity of a bidder for a quarter would be divided in three equal parts for determining Monthly Scheduled Quantities (MSQ) for coal supplies during a quarter. However, in case of supply by rail, such equal monthly parts shall be in the multiple of rake load. The total successful bid quantity in rake loads for a quarter for a bidder shall be distributed equally over three months of the quarter. In the event the total quantity is not exactly divisible by three, the fractional quantity of either one or two rakes will be programmed in the 1st month of the quarter or 1st & 2nd month of the quarter as the case may be. For example, if a successful bid quantity is 7(seven) rakes for a bidder in a quarter, after allocating two rakes per month of the quarter, the remaining 7th rake will be programmed in the 1st month of the quarter. Similarly, in the event of successful bid quantity being 8 rakes in a quarter for a bidder, the monthly allocation would be in the order of 2 rakes per month in the quarter and the remaining

7th and 8th rake will be programmed for 1st and 2nd month of the quarter respectively. In the event the successful bid quantity is only one rake in a quarter for a bidder, the choice of the programme for a month shall be with the bidder. In the event the successful bid quantity being 2 rakes only for a bidder in a quarter, the bidder shall opt for any two months of the quarter for programming one rake in each month.

8. Financial Coverage and Terms of Payment:

8.1.1 The successful bidder after forward e-Auction will be required to deposit coal value for supply in a month with the concerned coal company at least 15 days prior to the commencement of that month in the concerned quarter. The same principle shall apply in the successive months of the quarter/quarters. Such payments shall be made through demand drafts / bankers cheque drawn in favour of the concerned coal company payable at the place of business of the of the coal company along with the debit advice issued by the bank certifying that the Demand Draft /Banker's cheque has been issued by debiting the account of the concerned consumer/ bidder.

8.1.2 In case of successful bidder if the coal value is deposited for less than the monthly scheduled quantity but not below 50% of the monthly scheduled quantity, the coal company shall accept the payment for the said amount and forfeit the EMD for the failed quantity. **However, if the buyer fails to deposit the coal value for at least 50% of the monthly scheduled quantity then such deposit shall not be accepted and the entire EMD of the monthly scheduled quantity shall be forfeited.**

8.1.3 In case of successful bidder having monthly allocated quantity of 1000 M.T per month or above shall have the option to deposit coal value in maximum two installments. First of such installment shall be deposited latest by 15 days prior to the commencement of the month concerned in the concerned quarter and 2nd/final installment shall be deposited latest by the last working day of the month preceding the month concerned in the quarter. Further, first installment in any case shall not be below 50% of the monthly allocated/scheduled quantity. In the event, buyer fails to deposit at least 50% of the monthly allocated/scheduled quantity by 15 days prior to the commencement of the month concerned in the quarter, then the entire EMD of the monthly allocated/scheduled quantity shall be forfeited. Further, in the event of any default in deposit of the remaining value of coal due under the second installment latest by the last working day of the month preceding the month concerned, the EMD proportionate to the defaulted quantity shall be forfeited, provided, however, the validity period of lifting of coal by road in terms of clause 11.1.2 of this scheme shall remain unaltered even if the successful bidder has opted to deposit the coal value in second installment.

8.1.4 In case of supply by rail, 50% of the monthly scheduled quantity shall be reckoned to be in the **units of full rake size with the fractional part, if any, rounded off to a full rake.**

8.1.5 In case of supply by rail, the successful bidder will have the option to deposit financial coverage in the form of BG with the concerned coal company as per prescribed format covering the maximum quantity of coal to be supplied during any month of the quarter, at least 15 days ahead of the commencement of the quarter.

8.1.6 In the event, a fresh BG is furnished by the successful bidder, the same should be deposited with the concerned coal company at least 21 working days ahead of the commencement of the quarter concerned. In such cases, where financial coverage is furnished in the form of BG by the successful bidder, a notice for deposition of the coal value by way of Demand Draft /Banker's cheque will be displayed on the notice board and also on the website of the subsidiary coal company, at least 3 working days in advance before the expected date of offer to the railways for allotment. The buyer will be accordingly required to deposit the Demand Draft /Banker's cheque along with the debit advice issued by the Drawee Bank to the tune of coal value for rake / rakes load to be offered/indented as per the notice within 48 hours of such notice.

8.1.7 In the event of non-deposition of 100% coal value by the bidder in terms of clause no. 8.1.6 above, the consent given against the rake programme will be withdrawn by the coal company and EMD as per e-auction scheme will be forfeited.

8.1.8 The successful bidder shall have the option of e-payment subject to Subsidiary Coal Company having the facility of e-banking **and the same is notified on the web sites accordingly.**

9. Make Up Rights:

Make up rights will be applicable in monthly supplies by road. In case of supply by road, the Coal Company and/or the Buyer shall have the right to vary the monthly scheduled quantity of the successful bid quantity for a quarter, within a tolerance of $\pm 10\%$ in any month subject to a prior notice of 21 days from commencement of the month concerned. However, the successful bid quantity of a quarter shall remain unaltered.

10. Conversion of EMD into a Security Deposit:

10.1 The coal value to be deposited in advance by the successful bidders shall be computed and deposited on month to month basis against the monthly scheduled quantity after making provision for the EMD amount corresponding to the monthly scheduled quantity out of the total EMD amount already transferred by the Service provider on account of the successful bidder to the concerned Coal Company. In other words, the coal value to be deposited and the corresponding EMD amount for the monthly scheduled quantity taken together shall be equivalent to 100% coal value of the monthly scheduled quantity.

10.2 EMD amount corresponding to the monthly scheduled quantity shall not be treated as an adjustment towards the coal value but shall stand converted into a 'Security Deposit' for performance of the bidders towards completion of the said transaction for the concerned month.

10.3 The above security deposit (as converted from the EMD amount) would be adjusted as coal value, only after completion of lifting of coal covered under coal value paid, excluding security deposit. However, in the event of default in performance by the bidder, the provision of forfeiture of the 'Security Deposit' (as converted from the EMD) as stipulated, would be applicable.

11. Delivery of coal:-

11.1 By Road:

11.1.1 In case of road supplies, once the coal value is deposited by way of demand draft /pay order, drawn in favour of the concerned coal company, along-with the debit advice issued by the bank, certifying that the DD/pay order has been issued, by debiting the account of the concerned Buyer, Sale/Delivery orders shall be issued within seven days by the coal company after encashment of Buyer's financial instrument. **The sale / Delivery Orders and Lifting Challans issued by the Coal Company shall indicate destination of the coal consuming unit.**

On the Sale / Delivery Orders / Rail Programme, the details of the documents alongwith their validity will be indicated to facilitate Coal Companies to take action as per Caluse 2.2.

11.1.2 The validity period of lifting of coal by road shall be 45 days from the first day of the month concerned for which the sale / delivery order has been issued irrespective of coal value being deposited in terms of clause 8.1.3 of this scheme. No extension of the validity will be allowed in any case.

11.2 Delivery By Rail:

11.2.1 The inter se seniority of buyers in case of rail-borne monthly programs shall be determined for supply of coal during a quarter in terms of seniority of the successful bidders as enumerated by the Service provider in the bid sheet based on the buyers' bids in a quarter.

11.2.2 The quantity allotted against each rake is only indicative; however delivery shall be made on the basis of actual weighment by the seller at the loading point.

11.2.3 The validity period of a monthly program for movement by rail for seeking allotment of rake shall be till the last day of the month concerned and consent of the programme shall be issued by the concerned coal company accordingly. Once the rake is allotted, it shall remain valid for supply of coal as per prevailing Railway Rules.

11.2.4 Although loading will be the responsibility of the Coal Company, but to avoid any complaint regarding over-loading, under loading and for quality, the Buyer himself or his authorized representative may supervise loading at the loading point. The authorized representative must carry valid authority letter along with photocopy of Identity Card issued by the Service Provider to the consumer.

11.2.5 Overloading & Under loading:

- 1) Any penal freight for overloading charged by the Railways for any consignment shall be payable by the Purchaser. However, if overloading is detected from any particular colliery, consistently during three (3) continuous months, on due intimation from the Purchaser to this effect, the Seller undertakes to take remedial measures.

- 2) Any idle freight for under-loading below the stenciled carrying capacity, as shown on the wagon, for Grade A, Grade B, Steel Grade I, Steel Grade II, Washery Grade I, Washery Grade II, Semi-coking Grade I, Semi-coking Grade II and washed Coal; and below the stenciled carrying capacity, as shown on the wagon, plus two (2) tonnes for all other Grades of Coal shall be payable by the Seller.
- 3) Idle freight resulting from under loading of wagon, as per point no.2, shall be adjusted in the bills. Idle freight shall be reckoned as:
 - (i) the difference between the freight charges applicable for the stenciled carrying capacity, as shown on the wagon, less the freight payable as per actual recorded weight of Coal loaded in the wagon for Grade A, Grade B, Steel Grade I, Steel Grade II, Washery Grade I, Washery Grade II, Semi-coking Grade I, Semi-coking Grade II and washed Coal; Or
 - (ii) the difference between the freight charges applicable for the stenciled carrying capacity, as shown on the wagon, plus two (2) tonnes less the freight payable as per actual recorded weight of Coal loaded in the wagon for all other Grades of Coal.

12. Weighment:

Both in case of road and rail supply , the weighment at the loading point shall be final and binding for all commercial purposes.

13. Refund of EMD for unsuccessful Bidders:

In case of unsuccessful bidders, EMD shall be refunded by the Service Provider after the auction is over, on the bidder's request. However, if no such request is received, the Service Provider will retain the EMD for participation in e-Auction in future.

14. Forfeiture of EMD/Security Deposit:

The EMD/Security Deposit submitted by the successful bidder shall be liable for forfeiture in the following cases: -

14.1 If after completion of e-Auction, a successful bidder fails to make payment for the monthly scheduled quantity of the coal value including all other charges as applicable within the stipulated time, the proportionate EMD equivalent to the failed quantity shall be forfeited subject to the provisions of this scheme and its terms & conditions.

14.2 If the successful bidder does not lift the booked quantity within the stipulated validity period, the proportionate security deposit (as converted from the EMD amount) for the unlifted quantity would be forfeited.

In case of supplies by road, such forfeiture shall be made only if the balance unlifted quantity is equal or more than a truck load i.e., 9 or 10 tonnes as applicable.

14.3 Such forfeiture, however, shall not be applicable if the coal company has failed to offer full or part of the monthly scheduled quantity of the bidder within the validity period. However, no forfeiture would take place if the balance quantity is less than a truck load or rake load.

14.4 If the buyer cancels the order / rake after booking in any month, the corresponding security deposit as converted from EMD shall be forfeited for the order / rake cancelled.

14.5 In case of failure on the part of consumer / bidder to ensure validity of the documents as per clauses 2.1 resulting in suspension of coal release / lifting due to expiry of validity of any of the documents, corresponding EMD / Security Deposit equivalent to the quantity which could not be released / lifted, shall be forfeited in terms of clause 2.2.

15. Refund of Coal Value:

The balance coal value of the unlifted quantity after the expiry of the validity period for supply of coal and completion of required commercial formalities shall be refunded subject to forfeiture of EMD/Security Deposit if required, in terms of forfeiture under this scheme and its terms and conditions.

16. General:

16.1 The coal procured under e-Auction is for the own use of the registered consumer / successful bidder within the country and not for Sale, Transfer or export.

16.2 All terms and conditions of Forward e-Auction Scheme shall be subject to force majeure conditions as applicable.

16.3 Bidders must always ensure to keep their email address valid. In any case Buyers will not be absolved from fulfilling their obligations / complying with terms and conditions herein including payment terms due to non-receipt of emails from the Service Provider.

16.4 Bidders must be extremely careful to avoid any error in bidding (whether typographical or otherwise) and they are fully responsible to check and rectify their bid before submitting their Bid into the live e-Auction floor by clicking the "Bid" button. During the auction if the incremental bid price is more than 50% of the immediately preceding bid price, then the system will seek a re-confirmation from the Bidder before the bid is registered.

16.5 There is no provision for bidding in decimals. The Bidder shall be solely responsible for all consequences arising out of the bid submitted by him (including any wrongful bidding by him) and no complaint /representation will be entertained by the Service Provider/Coal Company in this regard.

16.6 The decision of the Director-In-Charge of Marketing of CIL / Coal Company in matters related to this e-Auction shall be final and binding on the bidders / Buyers.

16.7 Quantities mentioned in notice are only indicative and may undergo a change depending on factors like actual production of coal, bottlenecks in coal transportation etc.

16.8 Coal Company / Service Provider reserve the right to cancel the sale of coal under this e-Auction from any source / location in part or whole at any stage at its sole discretion without assigning any reason thereof and no party shall have any right whatsoever to raise any claim in that regard on that count.

16.9 CIL/Coal Company reserves their rights to amend/modify the terms and conditions contained herein in full or in part at any point of time and no party shall have any right whatsoever to raise any claim in that regard on that count.

16.10 Sale under each e-Auction shall be an individual, independent, unique and complete transaction.

17. Dispute Resolution/Arbitration:

In the event of any dispute, Bidder / Buyer is necessarily required to represent in writing to the General Manager (Sales) of the concerned coal company, who would deal with the same in a period of one month from such representation. Thereafter, if required the matter be determined by the Director-In-Charge of Marketing of the concerned coal company. Any interpretation of any clause of this will be subject to clarification by CIL, which will be deemed as final and conclusive. All disputes arising out of this scheme or in relation thereto in any form whatsoever shall be dealt exclusively by way of arbitration in terms of the Arbitration and Conciliation Act, 1996. The arbitration shall be conducted at Calcutta at a place to be notified by CIL. The arbitrator shall be appointed by the Chairman and Managing Director, CIL upon written request in this behalf. The award rendered by the Arbitrator shall be final and binding on the parties. The place of arbitration & nomination of arbitrator be varied appropriately in view of the Coal company involved.

18. Acceptance of Terms & Conditions:

. The consumer / bidder has to accept the Terms & Conditions before participating in e-Auction and also before issue of delivery order / rail programme.
