



**Guideline for Open Auction of Sites for Surface Collection and
Riverbed Material Dredging for Export, 2021**



**Department of Forests and Park Services
Ministry of Agriculture and Forests
Royal Government of Bhutan**

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ACRONYMS:

BG:	Bank Guarantee
CFO:	Chief Forestry Officer
CoO:	Certificate of Origin
DGM:	Department of Geology and Mines
DoFPS:	Department of Forests and Park Services
DOT:	Department of Trade
DRC:	Department of Revenue and Customs
DLLC	Dzongkhag Land Lease Committee
EC:	Environmental Clearance
EM:	Earnest Money Deposit
EMP:	Environment Management Plan
FC:	Forestry Clearance
GRF	Government Reserved Forest
IEE:	Initial Environmental Examination
JAC:	Joint Auction Committee
JMT:	Joint Monitoring Team
LLC	Land Lease Certificate
MoAF:	Ministry of Agriculture and Forests
MoEA:	Ministry of Economic Affairs
NRPC:	Natural Resources Pricing Committee
RBM:	River-bed Materials
RRCO:	Regional Revenue and Customs Office
RTIO:	Regional Trade and Industry Office

CHAPTER 1: PRELIMINARY

Background

In April 2020, when COVID 19 Pandemic prevention and public support measures started in Bhutan, His Majesty in a Royal Address to the Nation commanded that “One of our biggest concerns is the burden on the economy arising from the measures imposed to control the transmission of the virus”. Amongst various initiatives of the Royal Government to enhance employment and revenue generation, export of boulders and river-bed materials from surface collection and river-bed dredging in Southern Bhutan held significant revenue earning opportunity for the Country.

In August 2020, the Department of Forest and Park Services (DoFPS), Ministry of Agriculture and Forests (MoAF) received instructions from the Government to explore potential areas for surface collection and RBM dredging for enhancing export revenues to counter financial challenges posed by COVID-19 in the Country. The DoFPS accordingly assessed sites feasible for surface collection and dredging of river bed materials in Southern part of the Country and submitted to the Cabinet. Subsequently, in line with Cabinet instruction, the Department made a detailed presentation to Cabinet Ministers chaired by the Hon’ble Prime Minister on 4 November 2020 at the Raven House, Densa.

The Cabinet issued directives vide C-3/2020/78/778 dated 7 December 2020 to allot feasible areas through Open Auction as per the guideline developed for allocation of Surface Collection and RBM Dredging sites through an Open Auction System.

Title and Commencement

1. This Guidelines shall:

- (1) Be called the Guideline for Open Auction of Sites for Surface Collection and Riverbed Material Dredging for Export, 2021; and,
- (2) Come into force with effect from 15 April, 2021 after endorsement by the 117th Session of the RNR GNHC Meeting held on 10 February 2021 and approved vide DoFPS/FPED/FLCS/3/ 2021/947 dated, 14 April, 2020.



Allotment System and Application of the Guideline

2. As per directives of the 78th Session of the *Lhengye Zhungtshog* conveyed vide Letter No. C 3/2020/78/778 dated 7 December 2020, the allotment of site for surface collection and dredging of river-bed material for export shall be through Open Auction System.
3. The scope and application of the Guideline shall be limited to the following:
 - (1) The Guideline shall be implemented until the revised Mines and Mineral Management Bill is enacted and come into force; and
 - (2) The Guideline shall apply only to conduct of Open Auction and Monitoring of surface collection and RBM dredging sites for export.

Objectives of the Guideline

4. The main objectives of the Guideline are to:
 - (1) Ensure that there is a transparent and uniform procedure for Open Auction of Sites for Surface Collection and Riverbed Material Dredging for Export in the notified Dzongkhags in Southern part of the Country.
 - (2) Enable smooth flow of the rivers to prevent degradation of embankment, reduce risk of flooding and inundation to adjoining land, infrastructure and habitat.
 - (3) Supplement and facilitate implementation of the Forest and Nature Conservation Rules and Regulations, 2017 and other relevant regulations, until the revised Mines and Mineral Management Bill is enacted by the Parliament; and
 - (4) Ensure that allotment and operation of surface collection and RBM dredging sites are monitored regularly.



CHAPTER 2: ELIGIBILITY AND JOINT AUCTION COMMITTEE

Eligibility

5. Any Bhutanese Citizen of legal age or any legal entity shall be eligible to participate in the Open Auction and shall be given equal opportunity to bid for the sites.
6. All current operators holding surface collection and RBM dredging sites for export shall not be eligible to take part in the open auction.
7. The winning bidder shall not be allowed to take part in subsequent auction of other feasible sites, when still operating a site awarded through the Open Auction.

Joint Auction Committee

8. The Open Auction of sites shall be conducted by a Joint Auction Committee (JAC), comprising of following members:
 - (1) Dasho Dzungda, Dzongkhag (Chairperson).
 - (2) Chief Forestry Officer, Forest Division, Department of Forests and Park Services, Ministry of Agriculture and Forests (Member Secretary).
 - (3) Head, Regional Revenue and Customs Office, Department of Revenue and Customs, Ministry of Finance (Member).
 - (4) Head, Regional Trade and Industry Office, Department of Trade, Ministry of Economic Affairs (Member).
 - (5) Head, Regional Office of Department of Geology and Mines, Ministry of Economic Affairs (Member).
 - (6) *Gup* of the *Gewog* where the site is located or Executive Secretary, *Thromde*, when the site falls within *Thromde* Jurisdiction (Member).
9. The Open Auction of sites shall be coordinated by respective Chief Forestry officers (CFO) of the Divisions, where the site is located.
10. A minimum quorum of Two-Third of Members from the JAC should be present during the conduct of the Open Auction.



11. The JAC Members participating in the open auction shall be entitled to a sitting fee of Nu.3000 per sitting with Tax Deduction at Source (TDS) of 2% as per prevailing government regulations.

A handwritten signature in black ink, consisting of several loops and a long vertical stroke at the end.

CHAPTER 3: ASSESSMENT AND PREPARATION OF SITE FOR AUCTION

General Provisions

12. The Department of Forests and Park Services (DoFPS) shall carry out assessment of all the sites feasible for surface collection and dredging of river-bed materials by taking into consideration of socio-economic and environmental aspects, and seek the approval of the Ministry of Agriculture and Forests.
13. The sites for surface collection and dredging of RBM shall be demarcated with Geographical Coordinates and physical reference points (Pegs). The concerned CFO shall be responsible for fixing the physical reference points. Any cost incurred for this activity shall be inbuilt in the reserved price.
14. The DoFPS shall carry out cadastral survey and demarcation of the feasible sites involving Dzongkhag Land Sector.
15. The DoFPS shall upon approval of the Ministry of Agriculture and Forests (MoAF) shall advertise the sites for Open Auction through a Public Notification.
16. The DoFPS shall assess the sites with estimate on quantity of exportable materials that is potentially available from each site based on area of the site, permissible depth of excavation of 3 meters and percentage composition of export materials based on past data from similar sites.
17. The DoFPS shall carry out Initial Environment Examination (IEE) of all feasible sites for notification and identify mitigation requirements along with cost estimates for such work.
18. The DoFPS shall obtain all requisite sectoral clearances from relevant agencies and requisite documents for issuance of the Environmental Clearance (EC) including the Environmental Management Plan (EMP) for operation of the feasible sites prior to notification of the sites.
19. The cost for any technical inputs other than forestry and any requisite fees including EC processing and application fee shall be inbuilt in the reserved price for each site.



20. The assessment and other costs incurred for finalizing a site for open auction shall be separately budgeted and requested through the MoF on need basis and should not be considered as part of normal sectoral budget ceiling.

CHAPTER 4: CONDUCT OF OPEN AUCTION

Registration and Registration Fee

21. Any eligible bidder shall register with the concerned Chief Forestry Officer (CFO), DoFPS with details indicated in Registration Form prescribed under Annexure I and shall deposit a non-refundable registration fee of Nu. 2000 (Ngultrums Two Thousand) Only, at least one day prior to the Open Auction date mentioned in the Public Notification.
22. Each eligible bidder who is registered for the Open Auction shall be issued a Token Number under signature and seal of the concerned Chief Forestry Officer based on the serial number of their registration. Only registered bidders issued with a token number shall be eligible to enter the auction venue and bid during the open auction of sites.

Inspection of Notified Sites

23. All bidders participating in the Open Auction shall be assumed to have physically inspected the sites they intend to contest for during the Open Auction and satisfy themselves completely regarding the quantity and quality of materials available. The DoFPS shall not be held liable for any limitations in expected quantity and quality of materials from sites awarded to any successful bidder whether or not bidders visit the sites before the auction.

Bidding Process and Award of Site

24. The Reserved Price shall be determined based on estimated quantity, site assessment costs, department operation costs, permit fees and service charges and shall be announced at the start of the Auction of each site. The Reserved Price shall be approved by the MoAF.
25. The opening bid value shall start with the Reserved Price and in the event the bid value is below the Government Expected value, the JAC reserves the right to reject the bid without incurring any liability to the government.



26. All bids for a site shall be maintained in the Bid Record Sheet prescribed under Annexure II. The highest bidder, whose bid has been accepted at the fall of the hammer, shall sign the Winning Bid Sheet cum Letter of Undertaking prescribed under Annexure III as soon as the auction for the site is over. In the event the JAC disqualifies the highest bidder-on the day of the auction, the Committee shall re-auction the site. The decision of the JAC shall be final and binding.
27. The winning bidder shall be allotted the site and, in the event, the winning bidder withdraws after he/she wins the site, his/her earnest money deposited shall be forfeited along with the site.
28. The sites allotted to the successful bidder should be operationalized within one month (30 days) from the date of signing the land lease deed. Failure to do so within this stipulated timeframe shall result in forfeiture of the site and earnest money deposited.
29. Any such site forfeited shall be notified for re-auction by the MoAF and accordingly re-auctioned as per provisions of this guideline.
30. The Winning Bid Sheet cum Letter of Undertaking prescribed in Annexure III shall be completed and signed for every site that is successfully awarded to a winning bidder.
31. A winning bidder shall pay 25% of the winning bid amount on the day of the Auction. The remaining balance of 75% shall be paid in five installments of 15% at the end of every 6 months. The installments will be payable on or before the first day of the seventh month during the lease period of 3 years.
32. All payment in relation to the open auction shall be made either in cash warrant or demand draft to the Chief Forestry Officer and cheques shall not be accepted.
33. The winning bidder who is awarded operation of the site shall be responsible for carrying out the mitigation work and payment of expenses for any such work reflected in the Environment Management Plan (EMP).
34. The timeframe for operation of sites awarded to a winning bidder shall be for a fixed block period of 3 years. However, if the Mines and Mineral Management Bill (MMMB) is enacted before the completion of this fixed period, the operation of the sites shall be allowed as per



provisions of this Guideline till the end of the approved timeframe. In such an event, proper handing over of the administration of operations to the relevant Agency shall be coordinated as per provisions of the relevant Law.

35. The validity of all clearances issued for a site shall be for the approved timeframe of 3 (Three) years.
36. Dredging operation shall not be allowed beyond the approved operation timeframe of three years. However, export of River Bed Materials (RBM) from the leased or private stockyard may be allowed after the expiry of 3 year timeframe.
37. The winning bidder shall not be allowed to sub-contract their site.
38. The RBM including boulder and gravel which are collected from the site allotted under this guideline and crushed aggregates, shall be allowed for export.
39. The boulders and RBM from operation of the sites shall be sold at the price approved by the Natural Resource Pricing Committee (NRPC) for domestic supply.
40. All other requirements of permits, payment of royalties, fees and charges shall be levied as per prevailing procedures, rules and notification or amendments made hereafter.

Deposit of Earnest Money and Performance Security

41. An eligible bidder registered for Open Auction of sites shall deposit an earnest money of 2% of the reserved price prior to the Auction date mentioned in the Public Notification issued by the MoAF.
42. The earnest money shall be retained until the Open Auction is completed. On completion of the allotment, the earnest money of the successful bidder shall be retained with the Department and will be adjusted against the payment due as the winning bid. The earnest money of unsuccessful bidders shall be refunded immediately after completion of the Open Auction.
43. The registered bidder who is allotted site through the Open Auction shall deposit 100% of the value of mitigation works reflected in the EMP as Performance Security and in the form of unconditional Bank Guarantee (BG) within 15 (fifteen) days) from the date of allotment,

failing which the allotment shall be treated as cancelled and the earnest money shall be forfeited. The validity of the BG shall be beyond 30 days of the validity of the Environmental Clearance (EC).

44. The amount deposited as Performance Security shall be released to the successful bidder after 2 weeks of the end of operation timeframe, provided the mitigation works and other activities are carried out as per the approved EMP determined through a compliance monitoring report. If the mitigation works are not carried out as per the EMP, the Government will either withhold the BG till the works are completed or forfeit the amount in whole or part as required for completion of the work through a third-party contractor identified for the purpose by the DoFPS.



CHAPTER 5: LAND LEASE DEED

Signing of lease deed

45. The DoFPS shall submit the land lease proposal in favour of the winning bidder along with the Letter of Interest to the National Land Commission Secretariat for the endorsement and issuance of Land Lease Certificate (LLC) on long term lease.
46. The Land Management Division (LMD) under the Department of Land Administration and Management, NLCS shall process for approval and issue LLC within 5 working days to the concerned Dzongkhag with a copy to DoFPS, MoAF.
47. The concerned Dzongkhag Land Sector shall carry out handing taking of the land through signing of land lease agreement with the Lessee involving the representative from DoFPS.
48. The land lease rent shall be as specified in the land lease deed signed between the Dzongkhag Land Sector and the Lessee or as per the existing relevant laws.

Termination of lease deed

49. The land lease deed shall be terminated under the following circumstances:
 - (1) Upon completion of the lease terms;
 - (2) If the lessee violates the terms and conditions of the lease deed;
 - (3) If the lessee has been convicted of criminal offence or has absconded;
 - (4) If the lessee fails to pay lease rent for 3 consecutive years;
 - (5) If the Government requires the leased land for public interest;
 - (6) If the lessee violates Terms and Conditions of the Letter of Undertaking as prescribed in Annex III of this Guidelines; or
 - (7) At the will of the lessee due to personal reasons.
50. The DoFPS shall forfeit the earnest money deposited in the event of termination of lease deed under Clause 49 except for termination under sub-clause 1 and 5.



51. The Lessee shall be eligible for replacement of site with similar RBM quantity, depending on the status of the operation at site, if the lease deed has been terminated under Clause 49(5) of this Guideline.

A handwritten signature or set of initials, possibly 'M3', written in black ink.

CHAPTER 6: MONITORING AND EVALUATION

Monitoring by Department of Forests and Park Services

52. The Chief Forestry Officer shall be responsible to carry out monitoring and evaluation of surface collection and dredging of river bed materials in the following stages:

- (1) At the operation stage, the concerned CFO of the DoFPS shall carry out the monitoring to:
 - (a) Ensure that the operator executes operation only within the demarcated site and prescribed depth of three (3) meters from the referenced point. The operation including mitigation works must adhere to specifications detailed in the EMP;
 - (b) Inspect the requisite permits for transit and stocking of surface collection materials or dredged RBM; and
 - (c) Ensure compliance to terms and conditions agreed under Annexure II and other terms and conditions prescribed under Forestry Clearance (FC) and Environment Clearance (EC) in collaboration with Dzongkhag or Thromde of the competent jurisdiction.
- (2) At the export stage, the concerned CFO shall carry out monitoring to:
 - (a) Inspect the export permit during the export of surface collection material and dredged RBM on routine basis; and
 - (b) Inspect that the export is in compliance with the existing norms and procedures of the Government.

Monitoring by Trade and Industry Office

53. The Regional Trade and Industry Office (RTIO), MoEA shall ensure that the Certificate of Origin (CoO) is consistent with quantity and type of surface collection and dredged RBM approved for export in the export permit.

Monitoring by Regional Revenue and Custom Office

54. The Regional Revenue and Customs Office (RRCO), Department of Revenue and Customs (DRC) shall ensure that issuance of the Export Declaration Form is consistent with quantity and type of surface collection and dredged RBM reflected in the export permit and CoO. The RRCO shall ensure that the exporter fulfils other requirements of the Government.



55. The RRCO shall regularly share information on quantity of materials exported from surface collection and dredged RBM with the concerned CFO, Dzongdag and Executive Secretary of the competent Thromde for reconciliation and checks.

Monitoring by Dzongkhag Land Sector

56. The authorized official from the Dzongkhag Land Sector shall monitor the geographical coordinates and physical boundaries at the site awarded to the lessee.

Monitoring by Joint Monitoring Team

57. The Joint Monitoring Team shall be formed constituting representative from relevant stakeholder to carry out compliance monitoring to:

- (1) Ensure that all mitigation works as per EMP and Terms and Conditions in EC are carried out prior to closure of operation; and
- (2) Ensure that the Lessee close the site from further operation at the end of operation timeframe and hand over the site.



CHAPTER 7: MISCELLANEOUS

Immunity

58. The Royal Government or the DoFPS shall not be held liable for any limitation in the quality and quantity of materials deposit at the awarded site from the estimated quality and quantity.
59. The DoFPS or Government shall not be held responsible for any loss or damage in part or whole incurred by the lessee due to natural calamities including but not limited to flood.

Fines

60. Any illegal activities carried out at the awarded site shall be liable for payment of fines as per provisions of Forest and Nature Conservation Laws; and any other relevant laws of the country.

Settlement of Dispute

61. Any disputes arising from the implementation of provisions of this Guideline, the Ministry of Agriculture and Forest shall adopt the mediation process to resolve the matter amicably. In the event the dispute cannot be resolved through mediation, the Parties may resort to any legal recourse as deemed necessary.



Annex I – Registration Form

Sl. No.	Name of Party	Registration Fee (Nu.)	Earnest Money Deposit (Nu.)	Token No. Issued

Annex II – Bid Record Sheet

Name of Site.....

Location of Site.....

Area of Site.....

Reserved Price.....

Sl.No.	Token No.	Bid Amount (Nu.)	Remarks

[Handwritten Signature]

Annex III – Winning Bid Sheet cum Letter of Undertaking

<u>Sl. No.</u>	<u>Particulars</u>	<u>Details</u>
1	Date of Open Auction	_____
2	Name & CID No of the Operator/License No of the Legal Entity	_____
3	Site Name and No.	_____
4	Site Size and Location	_____
5	Registration Fee Amount (Nu.)	_____
6	Reserved Price Amount (Nu.)	_____
7	Winning Bid Amount (Nu.)	_____
8	Earnest Money Deposit Amount (Nu.)	_____

TERMS AND CONDITIONS

The winning bidder (herein after referred to as the Operator) hereby undertake to abide by the terms and conditions laid down hereinunder in carrying out the task for Surface Collection and Riverbed Material Dredging for Export awarded to me vide approval Letter No Dated

1. The Operator is awarded the site as per the auctioning procedures prescribed in the Guideline for Open Auction of Sites for Surface Collection and Riverbed Material Dredging for Export, 2021. In the event, the Operator opt to withdraw; the earnest money deposited with DoFPS shall be forfeited along with the site.
2. The Operator shall not take part in subsequent auction of other feasible sites, when still operating a site awarded through the Open Auction.
3. The termination of awarded site shall be governed by Clause 49 to 51 of this Guidelines.
4. The site awarded through open auction shall be final and binding and no change in site shall be entertained.
5. The Operator shall sign a Letter of Undertaking as prescribed in Annexure III of this Guidelines with the DoFPS before starting the operation at the site.



6. The Operator shall deposit Performance Security at 100% of the value of mitigation works reflected in the Environmental Management Plan in the form of unconditional Bank Guarantee within 15 (fifteen) days) from the date of award of site, failing which the awarded site shall be cancelled and any earlier deposits made therein shall be forfeited.
7. The validity of the unconditional Bank Guarantee under Clause 6 above shall be 30 days beyond the validity of the Environmental Clearance.
8. The Performance Security shall be released to the Operator after 2 weeks from the expiry of operation timeframe, provided the mitigation works and other activities are carried out as per the approved Environmental Management Plan determined through a compliance monitoring report. In the event, the mitigation works are not carried out as per the Environmental Management Plan, the Bank Guarantee will be withheld till the works are completed or the amount equivalent to the cost to be incurred for completion of mitigation work by a third-party contractor shall be forfeited from the Bank Guarantee.
9. The Operator shall not be allowed to sub-contract the site awarded to him through Open Auction.
10. The Operator shall commence operation at the site within one month (30 days) from the date of signing the lease deed with Dzongkhag Land Sector as per Clause 47 of this Guideline. In the event, the Operator fails to operate within the stipulated timeframe; the site along with the earnest money shall be forfeited.
11. The Operator shall not hold the DoFPS accountable for any limitations in quantity and quality of materials deposits at the site.
12. The operator shall carry out the mitigation work and payment of expenses for any such work reflected in the Environment Management Plan (EMP).
13. The dredging operation period shall be for the fixed duration of 3 years, which shall not be extended. However, the domestic supply or export of stocked materials from private or leased stockyard may be allowed after expiry of 3 years duration.
14. The River Bed Materials including boulder and gravel collected from the site and crushed aggregates, shall be allowed for export.
15. The Operator shall adhere to the requirements of permits, payment of royalties, fees and charges as per the prevailing procedures and relevant laws.



16. The DoFPS or Government shall not be held responsible for any loss or damage in part or whole incurred by the Operator due to natural calamities including but not limited to flood.
17. The Operator shall supply boulders and RBM from the awarded sites for domestic use at the price approved by the Natural Resource Pricing Committee.
18. The operator shall close the operation at the expiry of the 3 years duration and hand over the sites as per the prescribed procedures in the Guideline.
19. The Operator shall be liable for fines and penalties as per the Forest and Nature Conservation Laws or any other relevant laws for carrying out any illegal activities on the site.
20. The Operator shall confine surface collection and dredging of river bed material to the areas demarcated and allotted by the Joint Auction Committee.
21. The Operator shall limit the excavation to the reduced level of three meters (3m) from the referenced point.
22. The operator shall not permanently divert river course as a result of the operation on the allotted site.

I hereby affirm that I have been clearly briefed on the above terms and conditions and I understood them, including the legal implication and consequences of violating the terms and conditions. In particular, I understand that in the event I do not adhere to any of the above stated terms and conditions, I shall be liable for payment of fines and compensations as per the provisions of the Forest and Nature Conservation Act, 1995 and its Rules and Regulations, 2017 and other prevailing laws.

(Affix Legal Stamp)

Signature of the Party

Joint Auction Committee Members

Witness (for both parties)

