

Canada – Province of Alberta

Relevant Laws

1. [1867 Constitution Act](#) – 30 & 31 Victoria, c. 3 (UK)
2. [Regulations Respecting the Leasing of Mineral Rights on Certain Public Lands](#) - SOR/96-13, last amended on 11 May 2006 (Public Lands Mineral Regulations)
3. [Mines and Minerals Act](#), Revised Statutes of Alberta 2000, Chapter M-17, current as of 6 December 2016 (Alberta Mines and Minerals Act)
4. [Mines and Minerals Administration Regulation](#), Alberta Regulation 262/1997 (Alberta Mines and Minerals Regulation)
5. [Alberta Information Letter 2014-07](#), Subject: Public Offering of Crown Coal Rights in Alberta, 19 February 2014

Conditions for Competitive Bidding

In general, the exploration, development, conservation, management, and extraction of mineral resources are matters primarily controlled by the government of the particular province or territory in which they are found (Article VI, Section 92A, 1867 Constitution Act). While the process by which mineral rights are acquired in Canada will vary by provincial or territorial jurisdiction, it appears that such rights are generally acquired on a first-come, first-served basis.

As an exception to this general rule, the Mines and Minerals Act of the Province of Alberta provides for a system by which rights over a mineral or subsurface reservoir may be granted by way of agreements issued: (1) upon application by the prospective grantee; (2) by way of sale by public tender; or (3) pursuant to any other procedure as determined by the minister (Section 16, Alberta Mines and Minerals Act). An agreement through which mineral rights are sold by way of public tender is issued when the minister publicly announces the name of the successful tenderer for the agreement, and the tenderer has complied with the provisions in the sale notice in respect of the preconditions for the issuance of the agreement (Section 7(1)(b), Alberta Mines and Minerals Regulation).

Furthermore, the federal government, which retains jurisdiction over certain aspects of mining regulation, provides for a competitive bidding process for mineral claims in respect of federally owned lands located within the provinces and territories. In particular, the minister may, by way of lease, grant to any person the exclusive right to search for, win, and take one or more minerals in respect of federal public lands located in or under the jurisdiction of any province or territory (Section 3, Public Lands Mineral Regulations). No such leases may be granted under law unless the minister has called for tenders and the grantee is the person making the highest tender (Section 4(1), Public Lands Mineral Regulations). However, a lease may be granted without calling for tenders where the grantee is the registered owner of the surface rights of the lands under which the subject minerals are situated (Section 4(2), Public Lands Mineral Regulations).

Two-Tier Bidding – Pre-Qualification Criteria

Information not available.

Biddable Factors/ Evaluation Criteria

While the regulations of the Province of Alberta do not appear to expressly provide for specific criteria, it is generally understood that the winner of the tender is the bidder that submits the highest non-refundable cash bonus (*see* Information Letter 2014-07).

Bidding Process

Information not available

Bidding Fee – Revenue/Buy-In

Information not available.

Eligibility

In the Province of Alberta, the following may be the lessee or one of the lessees of an agreement over mineral rights:

1. An individual who is 18 years of age or older (Section 23(1), Alberta Mines and Minerals Act).
2. A corporation that is
 - a. Registered under the Companies Act;
 - b. Registered, incorporated, or continued under the Business Corporations Act;
 - c. Incorporated or continued under the Bank Act (Canada);
 - d. A railway company incorporated under an Act of Canada;
 - e. A loan corporation or a trust corporation;
 - f. An insurer licensed under the Insurance Act; or
 - g. In any other case, approved by the Minister as a corporation that may hold a mining license (Section 23(2), Alberta Mines and Minerals Act).