

# Indonesia

## Relevant Laws

1. [Law No. 4 of 2009 on Mineral and Coal Mining \(2009 Law\)](#)
2. [Regulation 11/2018 \(2018 Regulation\)](#)

## Conditions for Competitive Bidding

In consultation with Parliament and regional governments, the Indonesian government designates areas of land as mining business areas (WIUP) (Article 17, 2009 Law) for which mining business licenses (IUPs) may be issued by way of public tender, or as State reservation areas (WIUPK) (Article 27, 2009 Law) for which special mining business licenses (IUPKs) may be issued. The mining area (business or State reservation) is an area which potentially contains minerals and/or coal, which is not restricted by the Government and which constitutes part of the national spatial layout (Article 1(29), 2009 Law).

The issuance of licenses over Metal Minerals and Coal WIUP is subject to a bidding process, while licenses over Non-Metal and Rock WIUP are granted by application (Article 57, 2009 Law). A WIUPK is a State reservation area over which IUPKs may be granted. In granting an IUPK, a State-owned entity is given priority to obtain the rights to mine, and tender only occurs if more than one State-owned or regional Government-owned entity is interested. If none are interested, private business entities may take part in the tender process.

## Two-Tier Bidding – Pre-Qualification Criteria

Pre-qualification is performed based on the bidders providing documents showing they meet the applicable administrative, technical, and financial requirements as defined in the legislation. The pre-qualification proposal is evaluated and given weightings of 20% for the mining expertise of bidder, 35% for the human resources capability of bidder, and 45% for work program and budget put forward. Once bidders are pre-qualified, they may submit a financial bid or offer price.

## Bidding Process

The tender process entails a pre-qualification round, after the conduct of which qualified tenderers are expected to submit their respective bids. The Minister or Governor shall make any announcements regarding the subject issuance of IUPs or IUPKs at least 3 months prior to the start of the tender process.

The pre-qualification announcement shall be made by the tender committee at the start of tender process. The determination of the qualified tender participant shall be made seven (7) working days after submission of pre-qualification tender documents. The determination of the winner of the tender process shall be made five (5) working days after receiving the report of the relevant tender committee.

## Biddable Factors

### Tender Requirements:

1. Material qualification requirements:
  - a. An Indonesian company seeking to make a bid must be authorized to conduct mining activities in its Articles of Association or bylaws. For PMA companies (*Perseroan Terbatas Penanaman Modal Asing*, or limited liability companies with foreign investment), the initial share capital of the bidding entity has to be at least equal to US\$ 450,000 (using an exchange rate of US\$ 1: IDR 13,860). The process of auctioning for private business entities will only be conducted when:
    - i. No BUMN or BUMD is interested in the WIUPK offer and/or no BUMN or BUMD is able to meet the administrative, technical, and financial requirements.
  - b. Submission of a work plan and budget for exploration activities to be conducted

- c. The placement of a guarantee for tender commitment equal to 10% of value of the data compensation prescribed in the tender package to be deposited in cash in an Indonesian State bank
- d. Submission of a statement or undertaking that, if selected as the winning bidder, the bidder will pay the price for compensation of information data no later than five (5) business days after the winner is announced

The evaluation of bidders is determined by the Auction Committee, based on weighted average results, with 70% from the pre-qualification result and 30% from the offer price ).

### **Bidding Fee – Revenue/Buy-In**

Information not available.

### **Eligibility**

1. Eligibility is based on whether or not the area is a WIUP or WIUPK.
2. If the area being tendered is a WIUP—the land area subject of the concession being offered determines the type of entities eligible to bid:
  - a. For WIUP mining areas smaller than 500 hectares, local regional state owned companies, local national enterprises, cooperatives and individuals (including firms and partnerships can participate in the auction. For WIUP mining areas bigger than 500 hectares, national state owned companies, BUMDs, national enterprises, foreign held entities (PMA, a corporation incorporated under Indonesian law) and cooperatives can participate in the auction.
3. Production Operation WIUP/WIUPK: Tender to business entity (including foreign investment company), a cooperative or an individual which/who has obtained a feasibility study report from government (or by upgrade from exploration by way of application) (Articles 38 & 46, 2009 Law).

### **Other Sources**

1. [Deloitte, New Energy & Resources Regulations](#)