

# Nigeria

## Relevant Laws

1. [Nigerian Minerals and Mining Act, 2007 \(2007 Mining Act\)](#)
2. [Nigerian Minerals and Mining Regulations, 2011 \(2011 Regulations\)](#)

## Conditions for Competitive Bidding

Nigeria uses discretionary bidding. The 2007 Mining Act provides that the Minister has the discretion to determine the geographic areas in which an exploration license or mining lease shall be granted on the basis of competitive bidding requirements (Article 9, 2007 Mining Act). “Pursuant to the power conferred under Section 9 of the [2007] Act, the minister may, by notice in the Gazette and in any widely read national newspaper, designate any vacant area in respect of which exploration license and mining lease shall be granted based on competitive bidding.” (Article 24(1)(a), 2011 Regulations). Areas in respect of which mineral titles may be granted by competitive bidding shall include:

1. Areas free of any valid existing mineral titles
2. Areas in which minerals classified by the act as “security” minerals have been found and those areas the minister may declare as security minerals from time to time<sup>4</sup>
3. Areas which the committee for any other reason deems fit to recommend to the minister (Article 4, 2011 Regulations)

## Two-Tier Bidding – Pre-Qualification Criteria

The 2011 Regulations specify that applicants will be pre-qualified “in accordance with the guidelines to be prescribed by the Minister.”<sup>5</sup> (Article 24(3), 2011 Regulations).

## Bidding Process

The procedure and guidelines for the grant of a license or lease in areas so designated shall be determined by the minister and be advertised when invitations are made for bidding. (Article 24(2)(b), 2011 Regulations). After the publication of a notification, interested applicants (who must be limited liability companies) obtain a bid application form at a fee determined by the Minister. (Article 24(2)(a), 2011 Regulations). Applicants will be prequalified according to the guidelines prescribed by the Minister. (Article 24(3), 2011 Regulations). “The Minister may set up a bid Committee to conduct the bidding and the Committee when constituted, shall be guided by the provisions of the Public Procurement Act, adopt and apply the guidelines and criteria stipulated by the Minister which shall be made known to participating companies and must be such that can reasonably guarantee the transparency and integrity of the process” (Article 24(6), 2011 Regulations).

“The Bid Committee shall comprise of experts from the Ministry, or such of its agencies and such other persons outside the Ministry with qualification and experience in the relevant fields.” (Article 24(6-7), 2011 Regulations). The final analysis and evaluation of the bids shall be done by the bid committee which shall recommend to the minister the bids which are most likely to promote the expeditious and profitable development of the mineral resources of the area with regard to biddable factors/evaluation criteria listed below. (Article 24(8), 2011 Regulations). The bid committee determines the modalities for the announcement of bid results. (Article 24(9), 2011 Regulations).

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<sup>4</sup> The Act defines the term “Security Minerals” to mean any radioactive mineral which contains by weight at least one twentieth of one percent (0.05%) of uranium, thorium, or any combination thereof including but not limited to monazite, sand and mineral ores containing thorium, caronite, pitch blend and other ores containing uranium. (p. 9, NO. 8: MINERAL RESOURCES LAW AND POLICY IN NIGERIA PROF. LADAN’S LAW AND POLICY REVIEW RESEARCH WORKING PAPERS BY Prof. Muhammed Tawfiq Ladan (PhD)

Department of Public Law, Faculty of Law, Ahmadu Bello University, Zaria, Kaduna State, Nigeria

<sup>5</sup> We do not have access to these guidelines.

## **Biddable Factors/ Evaluation Criteria**

1. The program of the exploration and mining operations which the applicant proposes to carry out and the commitments with regard to expenditure which the applicant is prepared to make.
2. The financial and technical resources of the applicant
3. The previous experience of the applicant in the conduct of reconnaissance and mining operations.
4. Other factors which the committee may consider (Article 9(2), 2007 Mining Act; Article 24(8)(a-d), 2011 Regulations)

## **Bidding Fee – Revenue/Buy-In**

The bid application form may only be obtained upon the payment of a fee to be determined by the minister. (Article 24(2)(a), 2011 Regulations). Furthermore, applicants shall pay a bid-processing fee to be determined by the minister at the time bidding is advertised. (Article 24(4), 2011 Regulations)

## **Eligibility**

The only reference to eligibility in the 2011 Regulations is to “Limited Liability Companies” (Article 24(2)(a), 2011 Regulations). Further information is not available.

## **Other Sources**

1. Minerals and Mining Regulations, 2010 (not referenced)