

## PROCEDURE FOR GRANTING MINING RIGHTS UPDATED

On 18 July 2023, amendments to Presidential Decree No. 975, dated 23 October 2023, were promulgated. The amendments approve the *Rules for Holding Competitive Bidding (Auctions and Tenders) to Grant Mining Rights*, replacing the *Regulations of Terms and Conditions of Holding Tenders and Bidding to Grant Mining Rights*.

Unlike the Regulations, where competitive auctions were jointly organized by the Ministry of Ecology and Natural Resources and Ministry of Emergencies, the Rules assign this responsibility to the State Agency for Use of Mineral Resources under the former. The Rules streamline regulation of competitive bidding by approving the procedures to apply for, document results of, and to hold, a bidding.

Rights to mine minerals are granted based on competitive bidding except where they are granted pursuant to direct negotiations. Mining rights for non-metallic (non-ore) mineral deposits are granted at auctions and mining rights for ore mineral deposits are granted through a tender. Auctions are open while tenders can be open and closed.

Competitive bidding is organized by the State Agency for Use of Mineral Resources under the Ministry of Ecology and Natural Resources. The Rules do not affect the cases when mining rights are granted pursuant to direct negotiations, which continue to be governed by the Cabinet Resolution No. 216 of 10 May 2019.

Entities and individuals of the Republic of Azerbaijan as well as of foreign states, regardless of types of ownership and legal form, may participate in an open tender and auction.

Only individuals and entities invited for this purpose may participate in a closed tender. A closed tender is held upon any of the following cases: (i) geological information about subsoil being granted is confidential; (ii) granting subsoil for extraction of radioactive raw materials; and (iii) participation in the tender of defense enterprises.

To prepare for bidding, the Agency considers an annual forecast of the needs of the country's economy and industry in building materials. The forecast is submitted to the Agency by the Ministry of Emergencies before 15 September of the current year.

Having analyzed the data of confirmed mineral deposits maintained by the State Geological Information Fund, the Agency by 15 December completes a list of mining rights to be put up for bidding during the next calendar year.

The Agency announces a competitive bidding at least 30 business days in advance of the bidding. No public announcement is made upon a closed tender. In closed tenders, documents are sent to participants ten business days before the date of the tender.

The amount of payment for participation in the bidding and the starting price of a subject of the competition are determined by the Ministry of Ecology and Natural Resources under the rules agreed with the Ministry of Economy.

The Agency annually submits to the auction commission (see below) a list of subsoil plots to be put up for bidding, including consents obtained in advance of landowners and relevant state bodies (institutions) on the allocation of land where mineral deposits are located.

The Agency forms a commission for each competitive bidding process. Upon completion of the procedures, the commission is dissolved.

The commission is competent if at least two thirds of its members are present in a sitting. Decisions at a meeting of the commission are taken by an open vote based on a simple majority of participating members; upon a tie vote, the vote of the commission chairman is tiebreaking. The commission members have no right to abstain.

Based on the results of competitive bidding documented by a protocol, in accordance with the Law, *On Licenses and Permits*, a subsoil plot granted is assigned the status (permit) of a ‘mining allotment’ for use by the winning bidder.

In the event of disagreements regarding a subsoil plot put up for bidding, the Agency may engage independent experts and specialists as consultants. If the disputes related to the holding of the auction are not resolved between the parties, they are resolved in an administrative and/or judicial manner.

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**Republic of Azerbaijan**

**For Further Information:**

**ContactUs@Bureau28a.com**

\*Information does not, and is not intended to, constitute legal advice

67, Neftçilar Avenue

Baku, AZ1095

Republic of Azerbaijan

www.bureau28a.com

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