

Request for Application
for
Spectrum Bidding in 1800 MHz Band

1 Introduction

Nepal Telecommunications Authority (NTA) intends to assign a portion of spectrum in 1800 MHz Band through auction Process to Mobile and Basic Telephone Service providers for providing Mobile Broadband services in the country. It is stated in Clause 5(Ga) of Telecommunications Services' Radio Frequency (Distribution and Pricing) Policy, (First Amendment) 2073 that among 2x75 MHz bandwidth in 1800 MHz Band, the maximum bandwidth of 2x20MHz in 1800 MHz band will be distributed to mobile and basic telephone service providers. Currently 2x16 MHz Bandwidth of spectrum is vacant in 1800 MHz Band.

NTA believes that provisioning of spectrum to the cellular mobile and basic telephone operators will enhance the current Quality of Service and significantly contribute to further achieve Government of Nepal's target of making Broadband Services easily accessible and affordable to the general mass as per the Broadband Policy, 2071.

1.1 **Spectrum Bidding**

Nepal Telecommunications Authority intends to assign spectrum in the 1800 MHz band to voice operator by means of Auction Process. The applicants will be pre-qualified based on the set criteria followed by Multi- Step Sealed Auction process in order to assign Spectrum blocks in 1800 MHz and is referred to in this document as the "Auction".

There are separate eligibility and pre-qualification criteria. The applicants who are eligible can apply and only the applicants who are pre-qualified can participate in the auction.

The NTA reserves the right to summarily disqualify any pre-qualified Bidder, at any stage of the Auction or after the Auctions are completed on grounds of non-compliance with eligibility conditions, misrepresentation, non-compliance with the Auction Rules, non-compliance with any other pre-condition prescribed for

participating in the Auction or for getting the spectrum, or any matter that may, in the opinion of the NTA, be contrary to general public interest.

Interested parties may, for their reference, obtain a copy of this document and any subsequent amendments to it (together, the “Notice”) from the NTA website. However, for the purpose of submitting the Application, the Bidder must buy the Bidding Document. The cost of the Bidding Document is ten thousand rupees (Rs. 10,000).

1.2 Objectives of Assigning Spectrum through the Auction

The objectives of assigning spectrum through the Auction are:

- To enhance the current Quality of Service
- To help in achieving the Goals and Targets set in the National Broadband Policy, 2011;
- To promote Mobile Broadband Penetration;
- To ensure efficient use of spectrum;

The NTA reserves the right to cancel or postpone the Auctions, in part or in full, without assigning any reasons, in order to safeguard the above objectives. The NTA has the sole discretion to determine the relative priority of the objectives and whether the objectives are adequately safeguarded by the Auction. It further reserves the right to abandon the Auction at any time prior to the award of spectrum as it may deem fit without giving any reason whatsoever.

1.3 The Auction

The award of Spectrum in 1800 MHz band shall be conducted as a single process, to be completed in one day. It will be a multi-step sealed bidding process.

1.4 Time Table

The table below sets out the timeline for bidding process. The NTA reserves the right to determine the overall timeline of the Auction or to amend it from time to time.

Auctions timetable

Issue of notice of Request for Applications (RFA)	Day 1
Last date for seeking clarifications on RFA	Day 15
Pre-bid Conference	Day18
Minutes of the Pre-Bid Conference along with the Clarifications to RFA	Day 22
Last date for submission of Applications	Day 35
Pre-qualification of Bidders	Day 45
Auction	Day 60
Payment of the Successful Bid Amount	Within 15 calendar days of the close of auction

2 Spectrum

2.1 Spectrum to be auctioned:

NTA plans to auction upto 2x16 MHz bandwidth in 1800 MHz band. The validity of the assignment of spectrum as a result of this Auction shall be for a period of validity of the Service License.

The Successful Bidder shall be allowed to use this spectrum throughout the entire geographical region of the country of Nepal.

2.2 Technology:

The spectrum assignment through this auction will be based on technology neutrality principle pursuant to the Telecommunications Services' Radio Frequency

(Distribution and Pricing) Policy, 2069 and First Amendment 2073 (Policy). However, the technology should be based on standards approved by ITU.

The service provider shall notify the technology to be adopted to NTA.

2.3 Scope of Service:

Services can only be offered subject to the terms and conditions of the license of the operator.

3 **Eligibility Conditions**

The Bidders must comply the following conditions in order to participate in the Auctions.

- (i) An applicant must have either Basic Telephone Service License or Mobile Service License from NTA.
- (ii) An applicant must have cleared all dues including Royalty, RTDF and spectrum fees.
- (iii) An applicant should not be a defaulter to NTA.
- (iv) An applicant having spectrum in 1800 MHz which is below the spectrum capping determined for that band.

4 **Spectrum usage charges**

The SB shall pay the spectrum auction price which will be the frequency fee for that fiscal year in which auction is completed and spectrum is assigned. For the subsequent fiscal years, the same auction price shall be paid (annually) by the Successful Bidder as per the time schedule stipulated in the Telecommunication Service Radio Frequency (Pricing and Distribution Related) Policy, 2069 and First Amendment, 2073.

5 **Breach, revocation and surrender**

5.1 The spectrum assignment may be revoked, withdrawn, varied or surrendered if the NTA is convinced that contrary to its license conditions the Successful Bidder

has engaged in providing any telecommunication services for which it is not permitted under the existing license applicable for it.

5.2 The spectrum assignment may also be revoked if the NTA determines the Successful Bidder of the spectrum to be in serious breach of any of the conditions of the assignment of the spectrum (including adherence to the Auction Rules) and the consequent obligations. In case of less serious breaches, the NTA may impose penalties at its discretion. Seriousness of the breach shall be determined by the NTA at its sole discretion.

5.3 The spectrum assigned shall also be revoked if the service license of the Successful Bidder is not renewed.

6 Auction Details

6.1 General Conditions

6.1.1 Confidentiality

Confidential Information means any non-public information which, if known to other Bidders, would be likely to affect the price that the other Bidders would be prepared to bid in the Auction or the bidding strategy that other Bidders would adopt. Such Confidential Information shall include (but not necessarily be limited to) the Bidder's business case, auction strategy and the highest price it is willing to bid for the spectrum. Any party to whom Confidential Information in relation to a Bidder is disclosed is deemed to be an Insider in relation to that Bidder. Bidders and Insiders must not convey Confidential Information to any other person, including another Bidder or its Insiders. Bidders shall also not be permitted to disclose the status of their participation, including whether they continue to bid in the Auction, until the completion of the Auction.

6.1.2 Directors, employees and advisers

No person, whether individual or corporate, can act for, or on behalf of, or advise more than one Bidder that is participating in the Auction.

6.1.3 Anti- competitive activity

Bidders must not enter into any arrangements with suppliers of equipment or software that would restrict the supplier's ability to supply such equipment or

software to other Bidders for the purposes of planning, building or operating a network utilising the frequencies to be auctioned. Bidders are also not permitted to agree with suppliers of equipment or software any form of restriction as to the prices charged or other terms and conditions that such suppliers may agree with any other Bidder.

6.2 Application Requirements

6.2.1 An applicant must satisfy with all the eligibility conditions as stated in Clause (3) above.

6.2.2 Application format and procedure for submission

In order to participate in the Bidding Process, prospective Bidders must submit an Application before the last date for submission of such applications. Format for Application and various undertakings is provided in Annex - 1.

Applicants should inform the NTA promptly in case of any change in the information submitted by them as part of their Application in stipulated time lines.

6.2.3 Documents to be submitted by the Applicant:

Prospective bidders are required to submit the followings:

- (i) A completed Application Form and all supporting information including the necessary undertakings and the Application Checklist;
- (ii) Documents verifying the eligibility conditions/criteria of the applicants
- (iii) An application processing fee;
- (iv) Earnest money, in the form of a Bank Guarantee (as per format provided in Annex-2) from a Commercial Bank, of an amount equal to 5% of the Reserve Price.
- (v) Nomination of an authorised person, who is empowered to take all decisions connected with the Auction on the Bidder's behalf and correspond on behalf of the Applicant with the NTA (the "Authorised Person"), along with a Power of Attorney empowering her/him for the same.
- (vi) Bidders may authorize one more person, who could act as the alternate Authorized Person in case of unavailability of the primary Authorized Person. In case of any duplication of submissions made by the Bidder, the

submission from the primary Authorized Person shall be considered as final and binding;

- (vii) An undertaking confirming that, if the applicant is successful in winning spectrum, (1) Licensee shall continue to abide by the conditions of the present License, and not engage in providing any telecommunication services through its network for which the licensee is not permitted under the present license conditions, and (2) If and when in the greater interest of telecommunications industry of Nepal, the Government of Nepal amends the terms of any existing Service, or Opens a new service facilitating the Successful Bidder also to migrate to such amended or newly opened service, it shall make every effort to migrate to such Service.
- (viii) Technical and Business Plan focusing and incorporating at least the following:
 - (a) Service Roll out and coverage plan:
 - Coverage,
 - Subscriber growth Projection,
 - Roll out plan in Rural and urban areas;
 - Rural and Urban Penetration,
 - Spectrum Efficiency and its Reuse,
 - Service Launch timeline
 - (b) Investment Plan:
 - Business and funding mechanism.
 - (c) Industry Development:
 - Plan to develop Telecommunications services.
 - (d) Quality of Service:
 - Network Performance,
 - Fault Incidence and Repair & Maintenance,
 - Customer Complain handling,
 - Data Rates and Throughput.
 - (e) Business Plan:
 - Business Model in the highly competitive telecom market,
 - Tariff for the services to be provided,
 - Types of services,
 - Plan to provide other services based on broadband etc.

6.2.4 Earnest Money Deposit

The earnest money (in the form of a Bank Guarantee from a Scheduled Bank) for the requisite amount needs to be submitted along with the Application for prequalification.

The Bank Guarantee shall be from a Scheduled Commercial Bank, and be valid up to 21/04/2019 extendable for a further period of three months at the request of NTA, in the prescribed format as given in Annex -2.

6.3 Pre-qualification of the Bidder

In order to pre-qualify, the Applicant must satisfy all of the following conditions:

a) Application requirements:

The Applicant must comply with the requirements for provision of information, the required clarifications [certification] and payment of the Earnest Money Deposit. Failure to provide any of these documents or to make the payment within the time specified may result in the Applicant not qualifying for the Auction.

b) Ownership restrictions

Ownership restrictions shall be as prescribed in the existing License.

c) Based on the information provided under section 6.2.3(viii) above the bidders will be evaluated and the applicants who are technically qualified will be able to participate in the Auction Process.

7 Announcement of pre-qualified Bidders

The NTA shall put up a list of pre-qualified Bidders on its website. At the same time, each pre-qualified Bidder shall be issued a notice.

8 Bid Validity

The Bids made in the Auction shall be valid up to 21/05/2019.

9 Disqualification of Applicant

NTA reserves the right to summarily disqualify any pre-qualified Bidder at any stage of the Auction or after the Auction is completed on grounds of non-compliance with eligibility conditions, misrepresentation, non-compliance with Auction Rules, non-compliance with any other pre-condition prescribed for participating in the Auction or being awarded the spectrum or any matter that may, in the opinion of the NTA, be contrary to general public interest. For such breaches, a Bidder's Earnest Money Deposit shall be forfeited and the NTA may undertake other penal action as well against such a Bidder. Seriousness of the breach shall be determined by NTA.

10 Spectrum in 1800 MHz band – Auction Rules

10.1 Overview of the Auction Stages

This Auction will assign spectrum in 1800 MHz Band at the maximum of spectrum capping as per the provisions set in the Policy.

This Auction for the 1800 MHz band is to be held among the Mobile Operators and Basic Telephone Operators. For the smooth conduct of the Auction process, NTA shall make the following arrangements:

- NTA shall appoint Auction Administrator(s) to conduct the auction. The Auction Administrator(s) shall conduct the auction in accordance with this document and shall have the sole authority to conduct the auction and take on-site decisions on all matters related to the ongoing auction
- Actions taken by the Auction Administrator(s) with good intension, including all decisions regarding the auction process shall not be questioned at any point of time.
- At the Auction venue, one separate cubicle/room with a working table and chairs will be provided to each of the bidders, to be used by them for preparing for their Second and Third Sealed Bids, as detailed in below.
- If additional facilities are needed at the cubicle/room, the Bidders shall request the NTA for the same.

Regarding the number of Bidders, the following shall apply:

- If the number of Bidders is less than two, NTA will extend the date of submission.
- Even after the extension if the bidders are still less than two, then NTA may assign the spectrum to the bidder.

10.2 Auction Process:

10.2.1 Spectrum in 1800 MHz band shall be auctioned.

10.2.2 Reserve Price: The Reserve Price for 2x1 MHz block of spectrum is fixed as Rs. 36 million.

10.2.3 The Auction will be carried out in the 2x1 MHz Block of spectrum. After the completion of the Auction, the Successful Bidder can request the required bandwidth not exceeding the spectrum capping fixed by the policy.

10.2.4 Auction Procedure:

- This auction process is 3 step sealed bidding.
- The first step of the bidding is the Submission of the First Sealed Bid which shall not be less than the Reserve Price (RP). The First Sealed Bid shall be submitted in a separate sealed envelope, which shall be clearly marked “First Sealed Bid for the Auction of spectrum in the 1800 MHz band”;
- The Minimum Bid Increment (MBI) shall be five percent (5%) of the RP.
- At the place fixed by the NTA for the Auction at 11:00 hours Nepal Time, the bidders shall submit to the Auction Administrator(s) their first sealed bid. All the sealed envelopes marked as First Sealed Bids from the Bidders shall be opened at 11:30 Hours Nepal Time in the presence of the bidders present for bidding and make a record of this.
- After this Opening of the First Sealed Bids, all the Bidders shall move to their respective cubicles/rooms for preparation of their “Second Sealed Bid”, which shall be no less than the highest bid price of the first. All the Bidders will be given Thirty (30) minutes for preparing their Second Sealed Bid, which they shall hand over to the Auction Administrator(s).
- Auction Administrator(s) shall open the Second Sealed Bids in presence of all the Bidders and make a record of this.
- After the opening of the Second Sealed Bids, the Bidders shall again move to their respective cubicles/rooms for preparation of their Third Sealed

Bid, which shall be the last and final bid. For this round also, the Bidders will be given Thirty (30) minutes, at the end of which all the Bidders shall hand over their Third Sealed Bids to the Auction Administrator(s).

- viii. However, as a result of the opening of the Second Sealed Bids, if the number of Bidders has come down to One, the Auction Administrator(s) shall, declare the Auction closed prior to the Bidders offering Third Sealed Bid.
- ix. At the venue of the Auction, all Time keeping shall be carried out by the Auction Administrator(s), whose decision shall be Final. Once in possession of the Third Sealed Bids, the Auction Administrator(s) shall open Third Sealed Bids in the presence of the Bidders.
- x. The Bid which turns out to be highest among the last Sealed Bids shall be the Final Bid and the Bidder of such highest Bid shall be declared the Successful Bidder.
- xi. If there is a Tie at the last Sealed Bid, an additional round of auction will be carried out between the Bidders in the Tie. At this auction, the Bidder with the highest bid will be declared successful. If there is again tie, then the one who was leading from the previous rounds will be awarded as successful bidder.
- xii. At the conclusion of the auction process, the Auction Administrator(s) shall declare and award the bidder a certificate of Successful Bidder. This shall be endorsed by NTA
- xiii. If a bidder withdraws a bid at any point of time during auction, the earnest money deposited shall be forfeited.

11 Payment Terms

- 11.1 Successful Bidder shall, within 15 calendar days from the close of the auction, pay the Final Bid amount, failing which the Bidder shall forfeit the Earnest Money deposited as Bank Guarantee and the Bidder with Second Highest bid amount shall be declared as the Successful Bidder. Upon submission of the Final Bid Amount, the Bank Guarantee of the Earnest Money shall be released.
- 11.2 The Earnest Money of unsuccessful bidders shall be released within 30 days from the date of close of auction.

11.3 NTA reserves the right to disqualify any bidder violating those rules.

12 Assignment of Spectrum

Upon receipt of the Successful Bid Amount, the NTA shall assign spectrum upto spectrum capping at maximum in 1800 MHz band to the Successful Bidder as per the provisions in the Policy. NTA shall make such assignment at the earliest possible date but not exceeding seven working days.

Upon declaration as successful bidder, the License(s) held by them will be amended by way of inclusion of an addendum comprising of this RFA.

13 Right to Accept or Reject Auction Process and Final Decision

The NTA reserves the right to accept or reject any bid and the auction process at any time prior to the declaration of successful bidder or assignment of the spectrum to the successful bidder. Also, on any dispute in the auction process or assignment of the spectrum, the decision of NTA will be final and binding to the applicants.

Date:

The Chairman,
Nepal Telecommunications Authority,
Kamaladi, Kathmandu.

Subject: Participation in a Auction of 1800 MHz Band of Spectrum

Dear Sir/Madam,

We, the undersigned, are participating in Auction of the 1800 MHz Spectrum in accordance with Request for Application for Spectrum Bidding in 1800 MHz band. We are hereby submitting our proposal, which includes the Technical Plan and Business Plan.

We hereby declare that all information and statements made in this Proposal are true and accept that any misinterpretation contained in it may lead to our disqualification.

We are enclosing Earnest money, in the form of a Bank Guarantee of NRs. 1.8 million issued by a reputed Commercial Bank in the format prescribed in Annex-2.

We understand you are not bound to accept any Proposal received.

Yours' sincerely

Authorized Signature:

Name and Title of Signatory:

Name of the Licensee:

License No:

Addresss:

Bank Guarantee Form

Ref No:

Date:

To,
The Chairman,
Nepal Telecommunications Authority
GPO Box No. 9754
Kamaladi,
Kathmandu, Nepal

Whereas [*Name of the Licensee*] hereinafter called "The APPLICANT" has submitted its application dated [*Date*] to participate in the Spectrum Bidding in 1800 MHz Band hereinafter called "The AUCTION"

KNOW ALL PEOPLE by these presents that we [*Name of Bank*] of [*Name of country*] having our registered office at [*Address of Bank*] hereinafter called "The BANK" are bound unto Nepal Telecommunications Authority, hereinafter called "The AUTHORITY" by the amount of NRs. [to be inserted] willingly and truly to be paid out to the said AUTHORITY upon entering any of the conditions specified below. The BANK binds itself, its successors and assigns by these presents sealed with the common seal of the said Bank this day of

The conditions of this obligation are:-

- (i) If the APPLICANT withdraws its bid at any point of time during AUCTION.
- (ii) If the APPLICANT/Bidder fails or refuses to pay the Final Bid Amount after being declared as Successful Bidder (SB).

We undertake to pay to the AUTHORITY up to the above amount upon receipt of its first written demand without the AUTHORITY having to substantiate its demand, provided that in its demand the AUTHORITY will note that the amount claimed by it is due to the occurrence of one or more of the aforementioned conditions, specifying the occurred condition or conditions.

This guarantee will remain valid till and any demand in respect thereof should reach the Bank not later than the above date.

Signature and Seal of Bank

Date:

Address: