

Annexure-B

PROCEDURE FOR ALLOTMENT OF RETAIL SALE VENDS(JKEL-2 LICENCES) IN UT OF JAMMU & KASHMIR

Retail Vends shall be allotted in the form of individual units for the year 2021-22. Each licensed vend will be authorized to sell JK Special Whisky and Indian Made Foreign Liquor including Imported Foreign Liquor/Beer/Wine/Cider/RTD under one roof. The bid shall be on the license fee only. For MRP calculation/Duty Structure/ Profit margin each bidder is advised to refer J&K Excise policy 2021-22 issued vide S.O. No. _____ dated _____, J&K Liquor License and Sale Rules 1984 and J&K Excise Act. Same is placed at Annexure “A”, “B” and “C” respectively. Further each bidder in his own interest is advised to bid carefully keeping in view the sale potential of his premises in the area and profit margin as notified in the Excise policy.

MODE OF ALLOTMENT:

The allotment of vends shall be made through e-auction portal through J&K Bank i.e. https://_____ in a completely secure and transparent manner. The detailed procedure for e-Auction/ instructions to the bidders are available on the e-auction portal and on the official website of the Department i.e. www._____. Same is place at Annexure “D”.

LOCATION OF LIQUOR VENDS:

The licenses for retail vends shall be granted at the locations specified in the Annexure-E to this document.

The Department shall not be responsible for providing space. The bidder shall arrange suitable premises in consonance with the *conditions* given in Para vii of this document. No extension in time; or concession in any fee, duty or any other levy by whatever name called, shall be allowed on account of failure of the bidder to arrange the premises for making the license operational from the date of commencement of sale operation as indicated in this document/decided by the Excise Department

I. ENTITIES THAT CAN APPLY FOR LICENSE:

The licenses for retail liquor vends for off-premises consumption shall be issued only in favour of:

- i) An individual
- ii) A partnership firm.
- iii) A body incorporated under the Companies Act 1956
- iv) A society registered under J&K Cooperative Societies Act.

II. NUMBER OF LOCATIONS THAT CAN BE BID FOR:

An individual can apply for any number of locations. The application fee, / EMD shall have to be paid separately for each such bid. However, to obviate the possibility of cartelization and monopolistic practices, only one location shall be allotted. The timing of bid for vends within Excise Range shall be separate. The Districts and Locations within Excise Range shall be put to Auction in Alphabetic Order. In case of Municipal Corporations in Excise Range, the Bidding shall be held as per numerical Order of the ward. In case a bidder is Highest i.e. H-1 at the time of closing of bid of a location, he/she in his/her own interest is advised not to bid for other locations subsequently. In case he/she bids at other locations after being H-1 at a location where bidding has closed, his/her EMD of all other locations except the first location where he is highest bidder shall be forfeited.

III. ELIGIBILITY CRITERIA :

The Bidder should:

- a. Not be below the age of 21 years on the 1st January of the year in which the auction is being held.
- b. Be a domicile of UT of Jammu & Kashmir.
- c. Be solvent up to 100 percent of the bid value. Solvency certificate of immovable property in J&K to be issued by Tehsildar.
- d. Not have been convicted/charge sheeted for any offence under the J&K Excise Act or facing a trial in any Criminal Court for any non-bailable offence or has criminal antecedents.
- e. Have arrangement in place to ensure availability of suitable premises on ownership/Lease/rent deed duly registered with the competent registering authority, in the area/location for which the bid is offered.
- f. Be medically fit to conduct the business.
- g. Has paid the non-refundable application/registration fee of Rs.25,000 and EMD of Rs.5.00 Lacs.
- h. not be debarred from holding license for the sale of any intoxicant in J&K, Punjab, Delhi, Haryana, UT of Chandigarh or Himachal Pradesh.

IV. Documents to be submitted with e-bid :

- a. Earnest Money Deposit of Rs Five Lacs shall be deposited on line through the link provided in the portal.
- b. Affidavits duly executed before a Judicial Magistrate affirming that:
 - i. The bidder has not been convicted/charge sheeted under the J&K Excise Act or facing a trial in any Criminal Court for any non-bailable offence or has any criminal antecedents.

- ii. He has in his possession/ has made arrangement for ensuring availability of premises on ownership/Lease/rent deed duly registered with the competent registering authority in the area/location for which bid is offered.
- iii. He is submitting only one bid for the given location whether in his individual capacity or in partnership or as member of cooperative society or Director of Company or its representative.
- iv. He is not holding any Excise License of a type which is not permissible to be held in conjunction with the license as provided in rule 18 of J&K Liquor License and sale rules .
- v. He is not a defaulter of the Excise Department.
- vi. Every bidder shall file an affidavit that he/she is not debarred from holding license for the sale of any intoxicant in J&K, Punjab, Delhi, Haryana, UT of Chandigarh or Himachal Pardesh.
- c. Recent passport size Photograph.
- d. Age proof (Birth Certificate/Passport/Matriculation certificate/certificate issued by the competent Authority)
- e. Domicile certificate.
- f. Copy of PAN of self/all partners.
- g. Copy of Aadhaar Card of self/of all partners.
- h. Partnership deed in case of a partnership firm.
- i. Medical fitness Certificate issued by a registered medical practitioner.

V. CONDITIONS FOR PARTICIPATION FOR E-AUCTION

The bidders shall ensure that they fulfill all the eligibility criteria as laid herein and as per the J&K Excise Act and rules made there under before participating in the bidding process. No verification of the disclosures shall be carried out by the Excise Department at the bidding stage. Upon conclusion of the process, if the successful bidder is found to be not fulfilling any of the eligibility criteria or fails to fulfill any condition subsequent to the bidding process, or does not fulfill the requirements mentioned in this tender document or refuses to accept the offer at quoted bid, the EMD shall be forfeited, and no claim whatsoever shall lie against the Excise Department/ Govt. of J&K on this account.

VI. SUITABILITY OF LOCATION TO BE ENSURED BY THE BIDDER:

The bidder should have arrangement in place for shop in the specified area (owned/leased/rented), and will have to furnish NOC from of any registered educational institution, railway station, hospital area, any large factory/ mill/ workshop wherever applicable. The bidder has to ensure that the location selected by him wouldn't result in any disturbance to public peace and order upon opening of liquor vend there. Apart from this, the bidder has also to ensure conformity of his premises to other requirements of the Excise Act

and rules and directions issued by the court of competent jurisdiction in this regard, if any. It will not be the responsibility of the Department to obtain requisite statutory approvals. The same shall be obtained by the bidder. However a temporary license may be issued by the Licensing Authority only in respect of the premises for which clearance has been issued by the concerned District Magistrate.

VII. PARTICIPATION/ REGISTRATION FEE:

Non-refundable/non-adjustable Participation/Registration Fee of Rs. Twenty five thousand to be paid online. In case of non-participation, the registration fee shall stand forfeited.

VIII. EARNEST MONEY DEPOSIT and Minimum Reserve Price

Earnest Money Deposit of Rs Five Lacs shall be paid through on line mode through the link provided in the portal before participating in the bidding process. The EMD of unsuccessful bidders shall be returned by the Department.

The minimum reserve price to bid for each vend shall be Rs 5lacs.

IX. AUCTIONING PROCESS:

Detailed steps of the e-auction process are given in the instructions to the bidders. Bidders are advised to familiarize themselves with the same.

X. SUBSEQUENT CONDITIONS TO BE FULFILLED BY THE SUCCESSFUL BIDDER:

Payment of bid amount

- i) The successful bidder will be required to deposit an amount equal to 50% of total bid amount under major head 0039 through GRAS/e-collect portal within two days from the date of finalization of bid for a vend and 100% of bid value within seven days of finalization of bid.
- ii) If the successful bidder fails to comply with the aforesaid condition of payment of bid money in the prescribed period, the earnest money shall stand forfeited. In such a case, the liability of the highest bidder will not be limited only to the extent of earnest money tendered by him in the auction process for a particular location, but any other allotment in which he is a stake holder shall also be cancelled and the respective deposits made in the form of earnest money or security for such other bids also shall be forfeited along with all amounts if any deposited on account of any fee/duty and he

will not be allowed to participate as a stake holder in any of future allotments.

- iii) Successful bidder shall submit hard copies of all the documents uploaded by him in the bidding process within two days of finalization of bid in the Office of the Excise Commissioner at 3rd floor Excise and Taxation Complex at Rail Head Complex Jammu.
- iv) He shall keep the proposed premises ready for making the vend operational from 1st of April of the year of allotment.
- v) He shall facilitate the verification of the documents/ location and any other check that the Excise Department undertakes before permitting opening of the vend.
- vi) The bid amount shall be for license fee only. Every Licensee will have to deposit the Minimum Guaranteed Revenue (MGR) on account of applicable Excise Duty/ Fee; as shown against each area; as per procedure prescribed. MGRs shall be divided into twelve equal installments to be deposited on 1st of every month compulsorily by the licensee. The MGR of the month deposited at the beginning of month shall be adjusted against the actual amount of duties accruing on the stock of liquor lifted by the retailer. Any Duty/Fee over and above MGR of the month shall also be remitted in Advance before lifting the liquor from wholesaler. MGR shall be divided equally among the number of successful bidders for an area. Failure to deposit the 1st installment of MGR on due date shall automatically lead to cancellation of successful bidder. In that case, the department reserves the right to distribute the MGR proportionally among other successful vends in the area.
- vii) In case of failure to deposit the subsequent installments of MGR on due date, the ETO concerned shall close the vend without any notice under an intimation to the DEC (Executive) and the Excise Commissioner and the same shall be opened only after payment of installment provided it is deposited within seven days. In case the installment is not deposited within seven days, the license shall be deemed to have been cancelled, his EMD shall be forfeited, and the Department reserves the right to distribute MGR of the vend among other operational vends in the area.
- viii) The earnest money deposit of the successful bidder shall be released at the end of the term of the license period. The EMD amount can be adjusted against any outstanding due from the licensee at the discretion of the department.
- ix) The successful bidder will submit a Solvency Certificate duly attested by "Tehsildar" in respect of the immovable property situated in the UT of J&K,

equivalent to 50% of the bid value, within 15 days from the date of allotment.

XI. PROCEDURE WHERE THE HIGHEST BIDDER FAILS TO FULFIL THE CONDITIONS SUBSEQUENT:

In case the highest/ successful bidder for a particular location fails to deposit the bid amount within period as specified in x(I), or deposit an advance Minimum Guaranteed Revenue of the month by 1st of April, or as the case may be or fails to make available for inspection a suitable/eligible premises within 5 days from the date of declaration of result of the bid, or fails to make operational the premises from 1st of April or as the case may be the earnest money paid/duties/fee etc.will be forfeited and the vend shall be re-auctioned. Further successful bidder/licensee shall also have to lift the Minimum Guaranteed quota of JK Special Desi whisky and duties /fee paid by him on account of such quota shall also be considered as part of MGR of the month.

XII. Payment of duties and License fee

The payment of duties/additional licensee fee/ Additional Assessment fee etc. as mentioned in Excise Policy 2021-22 shall be paid by the licensee/successful bidder as per procedure/manner prescribed in the Excise Policy.

XIII. MODIFICATION OF THE BID DOCUMENT:

Government in the Finance Department will be the competent authority for approving any modification in this document. However, the Committee for the supervision of the auction process may clarify any doubt or difficulty that may arise in the interpretation of the terms and conditions.

XIV. SUPERVISION OF THE AUCTION/ ALLOTMENT PROCESS:

The process of allotment shall be supervised by a high level committee to be constituted by the Government under the chairmanship of Administrative Secretary Finance Department.

XV. VERIFICATION BEFORE OPENING OF VENDS:

Verification of particulars/documents furnished by the successful bidder shall be made by the Committee/Officer authorized by the Excise Commissioner. The successful bidder shall be obliged to extend full cooperation in the verification process.

XVI. PUBLICATION OF THE LIST OF SUCCESSFUL BIDDERS:

The list of successful allottees shall be given wide publicity and also be displayed at a conspicuous place in the office of the Excise Commissioner/ official website.The bidders

in their own interest are advised to keep in touch with the office of the Excise Commissioner.

XVII. ALL LICENSES TO BE SUBJECT TO THE J&K EXCISE ACT AND RULES, ETC.:

All licenses shall be granted subject to the provisions of the J&K Excise Act and the Rules/ Orders/ Regulations/ Instructions/Policies framed there-under as applicable to the U.T. Jammu & Kashmir during the period of license.

XVIII. TERM OF LICENSES ISSUED THROUGH THIS PROCESS:

All licenses granted under provisions of Excise Policy 2021-22 shall determine on 31st March of the year following the year of allotment irrespective of their date of allotment.

XIX. CLOSURE OF VEND ON ACCOUNT OF DISTURBANCE TO PUBLIC PEACE:

In case the vend is not allowed to operate by the competent authority on account of public resentment leading to law and order situation, the licensee shall be allowed to arrange an alternate premises in the same area by the Excise Commissioner within a period of 30 days subject to condition that MGR for the period granted shall be paid by the successful bidder/licensee, within 03 days of such closure. In case he fails to do so, the license shall be deemed to have been cancelled from the date of closure of the business, and no compensation, refund or any claim whatsoever including that of the EMD/ License fee/duties/fee etc., shall lie against the Government on account of such closure.

XX . The Government reserves the right to add/delete/de-notify/change any of the locations/cancel the auction process in respect of all/any of the location without specifying any reason at any time prior/during or after the auction process.

XXI. In case any location could not be auctioned or allotted same shall be put to auction again.

XXII. JURISDICTION OF COURTS:

All disputes in respect of any issues that may arise from the process of allotment shall be subject to the jurisdiction of courts in Jammu & Kashmir only.