

Emissions Reduction Fund: auction guidelines

For use with April 2015 auction only

Introduction

The Clean Energy Regulator will purchase emissions reductions through a carbon abatement purchasing process. This process could include a reverse auction, tender or other process. This document establishes the auction guidelines.

Emissions reduction purchases will be in the form of Australian carbon credit units (ACCUs). The Clean Energy Regulator will make these purchases through a Carbon Abatement Contract (contract) at a price determined through a pay-as-bid reverse auction.

Each auction will include only one round, so sequential bidding will not be an option. Project participants (participants) making bids will not see what others are bidding.

Each bid made at an auction will relate to one or more projects registered for the Emissions Reduction Fund. If a participant's bid is successful, the participant will automatically enter into a contract with the Clean Energy Regulator on behalf of the Commonwealth of Australia covering the project(s) related to the bid. A participant making a successful bid will be paid the price under the contract that they bid.

Bids must be submitted through an online bidding platform approved by the Clean Energy Regulator. Bids will succeed solely on the basis of price, as explained in section 4.

The Clean Energy Regulator will conduct auctions in accordance with these guidelines. These guidelines are divided into six sections:

1. Auction schedule
 - This section provides information on the frequency of auctions.
2. Auction qualification and registration
 - This section summarises the requirements a participant must meet to be able to make a bid at an auction and subsequently secure a contract.
3. Disqualification and obligations of participants and authorised bidders
 - This section identifies reasons why the Clean Energy Regulator may disqualify a participant or authorised bidder from participating in auctions or any other carbon abatement purchasing processes, as defined in the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Carbon Credits Act).

4. Auction bidding

- This section describes the guidelines that will apply to determine whether bids made in an auction are compliant and the criteria the Clean Energy Regulator will use to determine the successful bids.

5. Auction suspension and cancellation

- This section identifies reasons why the Clean Energy Regulator may suspend or cancel an auction that is scheduled or in progress.

6. Auction information publication and timelines

- This section identifies the auction and contract information that the Clean Energy Regulator may publish as well as the information that will not be published.

1. Auction schedule

The Clean Energy Regulator will publish an indicative forward schedule of auctions on its website, and confirm and publish an auction's date(s) and bidding window (i.e. the opening and closing time for receiving bids) at least six weeks before the auction.

2. Auction qualification and registration

A participant, who wishes to make a bid at an auction for securing a contract covering one or more projects related to the bid, must complete the following steps:

Step 1: Project(s) related to the bid must be registered by the Clean Energy Regulator (see [Step 1 – Apply](#) on the Clean Energy Regulator's website).

Step 2: The participant must be qualified by the Clean Energy Regulator to participate in auctions in relation to the project(s). This step establishes the commercial terms of the contract covering the project(s) that will be entered into by the participant if their bid is successful.

Step 3: The participant must be registered by the Clean Energy Regulator to make a bid at an advertised auction in relation to the project(s). This step establishes the delivery terms of the contract covering the project(s) that will be entered into by the participant if their bid is successful.

- › The Clean Energy Regulator will not register a participant for that auction in relation to the project(s) if:
 - (1) a registration for the project(s) for that auction already exists, whether it is a registration for the project(s) by themselves or in combination with any other project(s) (i.e. one project, one registration for one auction), or
 - (2) the minimum total quantity offered for sale by the participant through that registration will be less than 2,000 ACCUs per year on average over the term of the contract. However, this does not apply to projects that were declared and registered by the Clean Energy Regulator under the Carbon Credits Act before 13 December 2014.

Participants must complete and submit applications in the form approved by the Clean Energy Regulator to initiate each of these steps. A participant can submit these applications at the same time or sequentially.

The final step in the formation of the contract is the participant making a successful bid in the auction for the project(s). This establishes the financial terms of the contract (principally, the unit price for ACCUs).

The contract covering the project(s) commences automatically upon notification by the Clean Energy Regulator of the bid's success and acceptance of the participant's offer.

Participants who wish to enter into a separate contract for another project or group of projects, will need to complete the steps outlined above for each contract.

Authorised bidder

A participant may nominate an authorised bidder to submit a bid on their behalf.

- The nomination must be submitted to the Clean Energy Regulator through the approved form. A participant may nominate more than one authorised bidder.
- If a participant is an individual and does not nominate an authorised bidder, the participant becomes the default authorised bidder.
- In submitting a bid into an auction, the authorised bidder declares that he or she has the legal capacity and authority to bind the participant to the bid.

A participant or authorised bidder can be disqualified (see section 3 of these guidelines) or excluded from being an authorised bidder. The following persons are excluded from being an authorised bidder:

- an "official of the Regulator", as this phrase is defined in section 4 of the *Clean Energy Regulator Act 2011*
- a person who has an account in the Australian National Registry of Emissions Units that is suspended under section 28D of the *Australian National Registry of Emissions Units Act 2011*.

3. Disqualification and obligations of participants and authorised bidders

Disqualification from participating in carbon abatement purchasing processes

The Clean Energy Regulator may disqualify a participant or authorised bidder from participating in carbon abatement purchasing processes for a period of up to two years, if the Clean Energy Regulator believes on reasonable grounds that the participant or authorised bidder has engaged in misconduct in relation to any carbon abatement purchasing process. In deciding whether to disqualify a participant or authorised bidder, the Clean Energy Regulator may take into account whether the:

- participant or authorised bidder has breached a provision of these guidelines
- participant or authorised bidder has breached a direction given by the Clean Energy Regulator relating to any auction
- participant has failed to deliver ACCUs under, or has in any other manner breached, any contract entered into by the participant
- participant or authorised bidder has breached or is suspected of breaching any of the following that affects any carbon abatement purchasing process or the conduct of participants or authorised bidders:
 - » the Carbon Credits Act
 - » the *Corporations Act 2001*
 - » the *Competition and Consumer Act 2010*
 - » the *Criminal Code*

- » any other Commonwealth, State or Territory law that is relevant to a carbon abatement purchasing process, or the conduct of participants or authorised bidders, or
- » the occurrence, suspected occurrence or possible future occurrence of conduct intended to affect the integrity of any carbon abatement purchasing process.

The Clean Energy Regulator may publish on its website the name of any participant or authorised bidder who has been disqualified from participating in carbon abatement purchasing processes and the period of disqualification. Notice of disqualification will be given to the disqualified participant or authorised bidder.

Obligation not to disclose bidding strategy

A participant or authorised bidder must not disclose:

- a bid
- a proposed bid, or
- bid-related information that could reasonably be expected to affect or be capable of affecting the integrity or outcome of an auction.

A participant or authorised bidder is not prevented from disclosing a bid, proposed bid or bid-related information:

- to the Clean Energy Regulator
- in the case of an authorised bidder, to their participant
- to an authorised bidder who is approved, in writing, by the participant to submit an eligible bid on behalf of the participant
- for the purpose of obtaining finance
- for the purpose of obtaining legal or financial advice, or
- if the disclosure is required or permitted by or under any law.

Obligation not to cause a carbon abatement purchasing process to become unfair or disorderly

A participant or authorised bidder must not:

- act in a manner that disrupts, or is likely to disrupt, the fair and orderly conduct of a carbon abatement purchasing process
- fail to act if that failure disrupts, or is likely to disrupt, the fair and orderly conduct of a carbon abatement purchasing process
- take advantage of a fault or malfunction in the carbon abatement purchasing process bidding platform, or another system operated by the Clean Energy Regulator, or
- take advantage of any other circumstance that may affect the integrity of a carbon abatement purchasing process.

4. Auction bidding

Eligible bids

An eligible bid for an auction is a bid which:

- is submitted in the form and through the means which have been approved by the Clean Energy Regulator for that auction
- is submitted within the bidding window for that auction, as published by the Clean Energy Regulator
- is submitted by a person who is an authorised bidder of a participant having the authority to make that bid on behalf of the participant
- is submitted by, or on behalf of, a participant that has registered for that auction in relation to the project(s) relating to the bid
- is not submitted by an authorised bidder, or on behalf of a participant, who is currently disqualified from participating in carbon abatement purchasing processes
- proposes the financial terms of the contract that will be secured if the bid is successful
- includes the GST-exclusive unit price per ACCU and is an amount rounded to the nearest cent, and
- is the first eligible bid made by, or on behalf, of a participant in that auction in relation to the project(s) relating to the bid. Any subsequent bid made by, or on behalf of, the participant relating to the same project(s) at that auction will be disregarded.

Withdrawal or cancellation of an eligible bid

An authorised bidder of a participant may withdraw an eligible bid made at an auction during the bidding window for that auction only, via the form and means approved by the Clean Energy Regulator.

The Clean Energy Regulator may cancel an eligible bid made at an auction by, or on behalf of, a participant:

- if requested during the auction window for that auction by an authorised bidder of the participant, and
- if the Clean Energy Regulator is satisfied that the authorised bidder is unable to withdraw the bid during that auction window due to a fault or malfunction relating to:
 - » a computer system
 - » a facility (within the meaning of the *Telecommunications Act 1997*), or
 - » a carriage service (within the meaning of that Act) provided to the public.

Once the bidding window for an auction has closed, an eligible bid submitted during the bidding window cannot be withdrawn, and will not be able to be cancelled, for at least 10 business days.

For the purposes of these guidelines, a business day means any day (other than a Saturday or Sunday or any day between 26 December in a year and 1 January in the following year) on which commercial banks are open for general banking business in Sydney and the Australian Capital Territory.

Benchmark price

The Clean Energy Regulator will set a benchmark (or ceiling) price for each auction.

Determining successful bids

The Clean Energy Regulator will apply the following criteria when determining successful bids at an auction:

- Criterion A (the benchmark price): the Clean Energy Regulator will only consider eligible bids that are less than the benchmark price set for that auction.
- Criterion B (the volume threshold): the Clean Energy Regulator will process bids meeting criterion A in the following sequence:
 - » All bids will be ranked by price offered, with the lowest price bids being ranked first and the highest price bids being ranked last.
 - » Bids offering the same price will be ranked equally.
 - » Starting with the lowest price bid, the ACCUs offered for sale through that bid will be added to a notional pool of ACCUs. If the total number of ACCUs in the pool does not exceed 80 per cent of the overall volume, then that bid will be selected. "Overall volume" means the cumulative total volume of ACCUs offered for sale through all bids meeting criterion A.
 - » The process in the point above will be applied to each ranked bid in sequential order until adding ACCUs (offered for sale through a particular bid) to the pool causes the number of ACCUs in the pool to exceed 80 per cent of the overall volume.
 - » If adding ACCUs (offered for sale through a particular bid) to the pool causes the number of ACCUs in the pool to exceed 80 per cent of the overall volume, then that bid will be selected and no further ranked bids will be selected.
 - » If adding ACCUs (offered for sale through any of two or more equally ranked bids) to the pool causes the number of ACCUs in the pool to exceed 80 per cent of the overall volume, then all of those bids will be selected and no further ranked bids will be selected.

All bids selected under criterion B will be successful for that auction.

5. Suspension or cancellation of an auction

The Clean Energy Regulator may suspend or cancel an auction that is scheduled or in progress if the Clean Energy Regulator believes on reasonable grounds that:

- the auction cannot continue, or be conducted, in a fair and orderly manner, or
- it is likely that the auction will not be able to continue, or be conducted, in a fair and orderly manner.

Circumstances that might prevent an auction continuing, or being conducted, in a fair and orderly manner include, but are not limited to, the following:

- a fault or malfunction in the auction processing system, or another system operated by the Clean Energy Regulator
- a circumstance that compromises the integrity of the auction process
- a failure or suspected failure by a participant or an authorised bidder to comply with these guidelines
- a failure or suspected failure by a participant or an authorised bidder to comply with a direction given by the Clean Energy Regulator relating to the auction process

- a breach or suspected breach of any of the following that affects the auction or the conduct of participants or authorised bidders:
 - » the Carbon Credits Act
 - » the *Corporations Act 2001*
 - » the *Competition and Consumer Act 2010*
 - » the *Criminal Code*
 - » any other Commonwealth, State or Territory law that is relevant to an auction, or the conduct of participants or authorised bidders, or
 - » the occurrence, suspected occurrence or possible future occurrence of conduct intended to affect the integrity of an auction.

If the Clean Energy Regulator is satisfied that a suspended auction can continue and be conducted in a fair and orderly manner, the auction will be restarted and will continue. If an auction is suspended, the Clean Energy Regulator will restart or cancel the auction, within a reasonable timeframe. If an auction is cancelled, it will be rescheduled and the date(s) and bidding window of the rescheduled auction published on the Clean Energy Regulator website.

6. Auction information publication and timelines

Notifying authorised bidders

The Clean Energy Regulator will notify each participant and authorised bidder of the result of their bid made at an auction, within five business days of the closing of the auction.

Information publication

The Clean Energy Regulator:

- may publish on its website information about an auction, including any summary information or statistics relating to the auction that the Clean Energy Regulator considers appropriate, and
- will publish on its website annual (financial year) reports about purchases of ACCUs as required by section 163A of the Carbon Credits Act.

The Emissions Reduction Fund Register (the Register) will also set out information about each contract that the Clean Energy Regulator has entered into, on behalf of the Commonwealth, including the:

- name of the carbon abatement contractor and their project
- duration of the contract, and the number of ACCUs to be delivered under it, and
- number of ACCUs the contractor has delivered to the Clean Energy Regulator.

The Clean Energy Regulator will not publish confidential commercial information such as the unit price to be paid under any contract.

Timeline and information to be published on the Clean Energy Regulator website

Timeline and information to be published	Date
Auction format and minimum bid size published	By approximately three months before auction day
Auction date(s) and bidding window published	By no later than six weeks before the auction
Auction registration closes	Five business days before the auction
Each participant and authorised bidder notified of their results	By the end of five business days after auction close
Volume weighted average price published	By the end of five business days after auction close

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