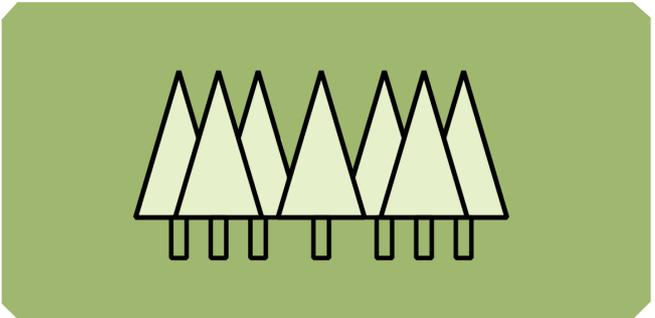
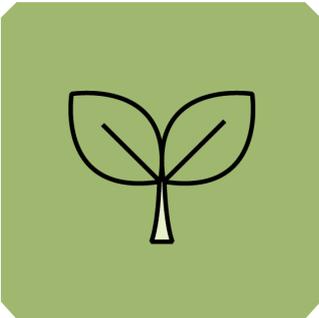




# Guidelines for Emissions Reduction Fund Auction 15

To be held on 29 – 30 March  
2023

Version 1.0, published January 2023





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## Introduction

This document establishes the guidelines for Emissions Reduction Fund (ERF) Auction 15, held on 29 - 30 March 2023.

Except as otherwise provided in this document, previous Auction Guidelines do not apply in relation to ERF Auction 15.

The Clean Energy Regulator (the agency), on behalf of the Commonwealth, purchases carbon abatement through a carbon abatement purchasing process. Carbon abatement purchases are in the form of Kyoto Australian carbon credit units (ACCUs), and the agency will make these purchases through a carbon abatement contract (contract) at a price determined through the auction, which will be a pay-as-bid reverse auction format.

ERF Auction 15 will comprise a single carbon abatement purchasing process to establish Optional Delivery contracts. All references to contract in this document are taken as referring to an Optional Delivery Carbon Abatement Contract, unless otherwise specified. You are advised to seek your own legal advice about ERF contracts before participating in an ERF auction.

### Safeguard mechanism reform

The [Safeguard Mechanism \(Crediting\) Amendment Bill 2022](#) was introduced to Parliament on 30 November 2022. The Bill allows legislative rules to be made to reset the interactions between the Safeguard Mechanism and creation of ACCUs. The Australian Government has published a draft of such legislative rules titled [Carbon Credits \(Carbon Farming Initiative\) Amendment \(No.2\) Rules 2023](#). When enacted and in force, the Bill and the rules would prevent new government contracts for purchase of ACCUs from projects that credit abatement of covered emissions from Safeguard facilities.

The [Option to Deliver - Code of Common Terms - version 2.0](#) has been published to align with the Bill and the draft rules in the event that they become law.

Auction applicants with emissions avoidance projects that reduce covered emissions at Safeguard-covered facilities should understand the legislative changes proposed and reflected in the [Option to Deliver - Code of Common Terms - version 2](#).

Note that the updated Code of Common Terms will only apply to contracts entered into at Auction 15. Contracts entered into before Auction 15, including contract novations, will not be affected by the updated Code of Common Terms.

Any queries regarding the Auction Guidelines should be sent by email to [cer-auctions@cer.gov.au](mailto:cer-auctions@cer.gov.au)

The agency reserves the right to:

- distribute the answer to any questions received to all auction applicants (any personal and confidential details will be removed in accordance with the agency's [privacy policy](#)), and
- refer an enquirer to the [AusTender](#) helpdesk if the query relates to AusTender technical or operational matters.



### ERF Auctions - The pay-as-bid reverse auction format:

- At a *pay-as-bid* auction, each successful bidder receives the price they specify in their bid, which means different bidders may receive different prices.
- A *reverse* auction is an auction with a single Buyer (the agency) and multiple Sellers.

## Definitions

Defined terms will appear throughout these Auction Guidelines. In addition, the following entities are defined for the purposes of these Auction Guidelines:

**Applicant:** A Proponent for a registered ERF project who offers to enter the registered ERF project into an auction and who wishes to become a Seller under an ERF contract.

**Authorised Bidder:** An individual nominated by an Applicant to provide the Delivery Terms for an offer for an ERF contract and to make and withdraw the auction bid for the offer.

**Authorised Representative:** An individual nominated by an Applicant who can:

- make applications to the agency to register the applicants for the auction and to provide the Delivery Terms of the offer
- make and withdraw bids for the auction and provide the Financial Terms of the offer
- send and receive binding notices for an ERF contract secured by the Applicant.

**Buyer:** The Clean Energy Regulator, on behalf of the Commonwealth of Australia, who will purchase ACCUs delivered under the terms of an ERF contract.

**Person:** any of the following:

- a body corporate
- a trust
- a corporation sole
- a body politic
- a local governing body
- an individual.

**Proponent:** A Person who is responsible for and has the legal right to carry out an ERF project.

**Seller:** An Applicant who is successful during the auction and enters into a contract to sell ACCUs to the Buyer.



## Auction overview

### Submitting applications and bids

To participate in an auction, applications for project registration, auction qualification and auction registration must be submitted in the form approved by the agency. They can be submitted at the same time or sequentially by the applicable deadline for that application (set out below in Key Deadlines), although they will only be approved by the agency sequentially. These forms will be available via the [Client Portal](#). The auction bid can only be submitted during the Auction Bid window (set out below in Key Deadlines).

The agency will only contract with Applicants who are also Proponents of the registered ERF project and who successfully complete all steps to participate in the auction (that is, auction qualification, auction registration and auction bid).

The agency is not obliged to accept or approve an auction qualification or registration application. For clarity, and as provided under sub-section 20G(4) of the [Carbon Credits \(Carbon Farming Initiative\) Act 2011](#) (the CFI Act), the mere fact that an Applicant has a registered ERF project does not automatically entitle the Applicant to participate in the auction or to have their application for auction qualification, auction registration or auction bid accepted.

The auction will include only one bidding round, so sequential bidding is not possible. Auction bidding is confidential and Applicants and Authorised Bidders will not see what others are bidding.

Auction bids must be submitted through [AusTender](#), as the agency's approved online bidding platform. Access to and use of [AusTender](#) is subject to terms and conditions. In participating in this auction, Applicants are to comply with those terms and conditions and any applicable instructions, processes, procedures and recommendations as advised in the [AusTender Terms of Use](#).

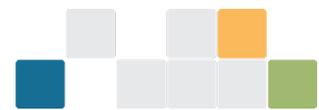
A successful auction bid – that is, an auction bid that is accepted by the agency – will automatically secure an Optional Delivery contract with the Commonwealth, at the price bid in the auction and for the agreed quantity of ACCUs.

### Stages and timing

**To participate in an auction and secure an ERF contract, you must:**

1. register an ERF project
2. qualify to participate in the auction
3. register for the auction
4. submit an auction bid that is accepted by the agency.

Strict deadlines exist for the submission of applications and late applications will not be assessed for the current auction. Any ERF project registration or auction qualification applications submitted after the applicable due date may be considered for a later auction (unless the application is subsequently withdrawn).



## Key deadlines for Auction 15

Activity	Timeframe	Date*
<b>Project registration application deadline</b>	31 business days before the auction	Tuesday 14 February 2023 (11:59 pm AEDT)*
<b>Auction qualification application deadline</b>	26 business days before the auction	Tuesday 21 February 2023 (11:59 pm AEDT)*
<b>Auction registration application deadline</b>	Five business days before the auction	Wednesday 22 March 2023 (11:59 pm AEDT)*
<b>Closing time for declaration of eligible projects</b>	Five business days before the auction	Wednesday 22 March 2023 (11:59 pm AEDT)*
<b>Auction Bid window</b>	Two days	Wednesday 29 March 2023 (12:01 am AEDT)* to Thursday 30 March 2023 (5:00 pm AEDT)*
<b>Results released, Authorised Bidder notified and average price per tonne of abatement published</b>		As soon as possible after the auction close

\* All times are given as local time in the Australian Capital Territory.

### Business day:

For the purpose of this document, **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.

## Completing application requirements

The agency may seek clarification or refinement of an application during the assessment process. Any such requests should be actioned without delay by the applicant to allow the application assessment to be completed within the auction timeframes.

Applicants may also be subject to third party assessment and should preferably submit their auction qualification prior to the deadline to maximise the time available if further information is required for assessment.

If you are having problems or foresee delays in completing any aspect of an auction-related application or associated request for further information, then you should notify the agency of the issues as soon as possible.



## Components of an ERF contract

All ERF contracts comprise the following components:

- **Code of Common Terms** – The [Code of Common Terms](#) sets out the standard rights and obligations of all parties under the contract. These terms are:
  - » non-negotiable
  - » common to all contracts that are secured at the same auction
  - » agreed to by all Applicants when applying through an auction qualification application to qualify for an auction.
- **Commercial Terms** – The Commercial Terms are established through auction qualification and set out details about the Applicant and the ERF project covered by the contract, if the Applicant’s bid is successful.
- **Delivery Terms** – The Delivery Terms of the contract are established through auction registration and set out the delivery period and schedule for the ACCUs the Seller may deliver if the Applicant’s bid is successful.
- **Financial Terms** – The Financial Terms are provided by the auction bid and set out the date of the contract (Contract Date) and the price per ACCU the Seller will be paid for ACCUs delivered under the contract.

## Application assessment

The agency will assess each auction qualification and auction registration application in accordance with standardised assessment processes, which have regard to the principles set out in sub-section 20G(3) of the [CFI Act](#). This will include, but not be limited to, assessment of the following:

- the Applicant’s suitability to contract with the Commonwealth
- the Applicant’s previous engagement with the agency’s schemes, including any outstanding liabilities or unmet obligations
- the Applicant’s history of delivering against carbon abatement contract delivery milestones, making exit payments under the fixed delivery exit arrangement or failing to satisfy obligations in respect of ERF projects or contracts (which may include an assessment by the agency of the Applicant’s performance, if any, in respect of other ERF projects and contracts)
- without limitation to or being limited by the preceding dot point, the performance of the Applicant or any of their Authorised Representatives in relation to any contracts entered into by them, or any of their respective projects, which may include, but not be limited to, assessing whether they have:
  - » demonstrated reasonable endeavours to fulfil any applicable conditions precedent under Fixed Delivery contracts to which they are or were a party
  - » breached, in any manner, any contract to which they are or were party, including failing to either deliver ACCUs or make exit payments under the fixed delivery exit arrangements (whether in whole or in part, or in accordance with one or more agreed or varied delivery schedules)
  - » provided any representation or warranty in relation to any contract or ERF project that the agency believes is, or was, untrue, inaccurate, incomplete or misleading
  - » preferred sales of ACCUs to a third party to the detriment of satisfying contractual obligations
  - » exhibited behaviour in relation to contracts or ERF projects that has created unreasonable and excessive administrative effort for the agency.



## Minor and immaterial errors

By participating in an auction, the Applicant authorises the agency to rectify any errors in any submitted auction qualification application, auction registration application or auction bid that the agency considers, in its sole discretion and acting in good faith, to be minor and immaterial. This authorisation does not place an obligation on the agency to rectify errors considered by it to be minor and immaterial.

The following is a non-exclusive list of examples that the agency could consider to be minor and immaterial errors in an application for auction qualification, auction registration or an auction bid:

- the error has been made during a clerical process involving the preparation or submission of the form
- the existence of the error is evident from the normal reading of the submitted form or communications with the Applicant or their representative
- the required correction of the error is obvious to the agency.



# Optional Delivery Carbon Abatement Contract

## Background

Optional Delivery contracts provide the Seller the right, but not the obligation, to deliver up to a set number of ACCUs at a set price to the Commonwealth within a set timeframe. The Optional Delivery contract allows for ACCUs from a project to be purchased by either the Commonwealth or other purchasers.

## Requirements

An Optional Delivery contract can be secured for a new or existing ERF project, providing that the project has not previously been contracted under either Optional or Fixed Delivery and is not connected to or identified as part of a portfolio of projects used to meet current Optional or Fixed Delivery contract obligations already committed to by the Applicant.

The indicated quantity of ACCUs for an Optional Delivery contract should be less than or equal to the abatement deliverable by the ERF project, including any submitted project variation applications to change the area of a soil or vegetation project.

## Features

The Optional Delivery contract has the following key features:

- It provides the Seller with the right, but not the obligation, to deliver up to a specified number of ACCUs to the Commonwealth at a set price and within a set timeframe.
- Where ACCUs are not delivered in full against a scheduled milestone by the due date, the right to deliver any outstanding ACCUs that are scheduled for delivery against that milestone will lapse.
  - » In limited circumstances, where a delivery cannot be made due to reasons beyond the control of the Seller, the agency may agree to extend a scheduled milestone to the earliest reasonable date for delivery in the future.
- All ACCUs delivered under the Optional Delivery contract must be derived from the single ERF project covered by the contract. That project is identified at auction qualification.
  - » Note that the ERF project must remain registered for the Optional Delivery contract to continue. Should the project be revoked (for example, if the Seller does not maintain the required Fit and Proper Person status) then the associated contract will automatically be terminated.
- An ERF project can only be the subject of an Optional Delivery contract once.

## Preventing site preferencing from discouraging deliveries to contracts

Some ERF methods allow an incremental accumulation of sites and abatement activities to a specified ERF project over time. In some cases, the same activities can be added to projects under different methods. For example, a number of the energy efficiency methods cover the same eligible activities to reduce emissions. Methods that cover similar activities are known as “method families”.

If a Seller had multiple Optional Delivery contracts for ERF projects under the same ERF method or method family, new sites could be selectively preferenced or added to projects linked to the Seller’s highest priced Optional Delivery contracts, to the exclusion of deliveries against their lower priced Optional Delivery contracts. This behaviour could undermine the purchase of least cost abatement that is required of the agency and the carbon abatement purchasing process.

In general, the rule to prevent Optional Delivery projects being used in this way does not apply to scheme participants with soil and vegetation projects adding more areas of land to their projects over time.



The agency may not accept or approve an auction application for a project using a method other than a soil method or the vegetation method family, that, if successful, could create concurrent Optional Delivery contracts in the same method family for the Seller and their associated entities. In determining who is an associated entity the agency will refer to the definition in Section 50AAA of the *Corporations Act 2001 (Cth)*. The agency may accept an auction application where it is satisfied that site preferencing behaviour will not impact the delivery capacity of any such contract held by the Seller and their associated entities.

### **Optional Delivery contracts and site preferencing**

Where a Seller or their associated entities have more than one ERF project under the same method family (other than from the soil method and vegetation method families), the agency will consider the application with regard to the following rules:

- The Seller's auction application may not be accepted or approved where, if it were accepted, it could create concurrent Optional Delivery contracts in the same method family for the Seller and their associated entities.
- The Optional Delivery contract must be for a minimum contract period of 3 years.
- If a Seller secures an Optional Delivery contract at the auction, the Seller and their associated entities may not be accepted for another Optional Delivery contract under the same method family at any carbon abatement purchasing process that closes within 3 years from the date of the auction at which the contract was secured.

The agency will continue to monitor for instances of site preferencing behaviour and will continue to review auction settings.

### **Important reminders for Optional Delivery contracts**

- Optional Delivery contracts cannot be obtained for ERF projects that:
  - » are or were covered by an Optional Delivery contract or a Fixed Delivery contract obtained at a previous auction, or
  - » have been identified as forming part of a portfolio of projects used to meet contract obligations already committed to by the Applicant under an existing or previous Fixed Delivery contract.
- Sellers and their associated entities can only have one Optional Delivery contract at a time for projects covered by ERF methods in certain method families that allow for incremental site preferencing over time.

## **Participating in the auction**

ERF project Proponents who wish to participate in an auction and secure a contract will need to complete the steps outlined below for each contract. The agency will only accept bids from, and contract with, Proponents who complete all the steps.

The auction qualification, auction registration and auction bid steps must be completed separately for each ERF contract that the Applicant wishes to enter into.



Note that assessment of project and auction applications may include conducting identity, security and financial checks; these may be performed by organisations external to the agency and must be completed to the satisfaction of the agency.

## Safeguard changes

The [Safeguard Mechanism \(Crediting\) Amendment Bill 2022](#) was introduced to Parliament on 30 November 2022. The Bill allows legislative rules to be made to reset the interactions between the Safeguard Mechanism and creation of ACCUs. The Government has published a draft of such legislative rules titled [Carbon Credits \(Carbon Farming Initiative\) Amendment \(No.2\) Rules 2023](#). When enacted and in force, the Bill and the rules would prevent new government contracts for purchase of ACCUs from projects that credit abatement of covered emissions from Safeguard facilities.

The [Option to Deliver - Code of Common Terms - version 2.0](#) has been published to align with the Bill and the draft rules in the event that they become law.

Auction applicants with emissions avoidance projects that reduce covered emissions at Safeguard-covered facilities should understand the legislative changes proposed and reflected in the [Option to Deliver - Code of Common Terms - version 2](#).

Note that the updated Code of Common Terms will only apply to contracts entered into at Auction 15. Contracts entered into before Auction 15, including contract novations, will not be affected by the updated Code of Common Terms.

## Auction qualification

The auction qualification establishes the offer by the Applicant to enter into an Optional Delivery contract and provides the Commercial Terms. It identifies and includes:

- the Proponents who choose to become Applicants, and any Proponent who consents to the ERF project being entered into the auction but does not wish to become a Seller
- the ERF project
- the type of contract being sought
- agreement to the [Option to Deliver Code of Common Terms](#).

Applicants for auction qualification will be required to provide an indication of the agreed quantity of ACCUs they may deliver during the delivery period. This indication is used by the agency to make a preliminary assessment of the abatement offer. The agency may seek to negotiate refinements to the proposed commercial terms and/or the indicated quantity, or seek additional evidence to support the indicated quantity:

- Applications for immediate delivery Optional Delivery contracts will require that the quantity of ACCUs be present in the ANREU holdings by the time of auction registration.
- Applications for longer term Optional Delivery contracts will require modelling evidence of reasonable capacity to deliver the quantity of ACCUs during the delivery period from the nominated project and its ACCU holdings. Other evidence may be provided for methods or projects where modelling is not available.

The Applicant must nominate one or more Authorised Representatives and one or more Authorised Bidders:

- The Authorised Representative is an individual with the authority to send and receive binding contract notices to/from the agency on behalf of the Applicant.
- The Authorised Bidder is an individual with the authority to submit and withdraw, on the Applicant's behalf, an auction registration application and an auction bid.



- If an Applicant is an individual, they may nominate themselves as the Authorised Representative and/or the Authorised Bidder.
- The same individual can be both the Authorised Representative and the Authorised Bidder.

### **Authorised bidder**

The nomination of the Authorised Bidder is submitted to the agency through the auction qualification form. After this, Authorised Bidders may be removed, new or additional Authorised Bidders nominated, or details of existing Authorised Bidders modified by submitting a request to the agency using an approved form, provided this is done prior to the start of the Auction Bid window.

The following individuals cannot be an Authorised Bidder:

- 1) an 'official of the Regulator', as this phrase is defined in section 4 of the *Clean Energy Regulator Act 2011*, or
- 2) an individual who has an account in the ANREU that is suspended under section 28D of the *Australian National Registry of Emissions Units Act 2011*.

Applicants with an auction qualification approved in the 15 months before Auction 15 (i.e., approved on or after 5 December 2021) do not need to re-apply for auction qualification before registering for Auction 15 unless:

- the auction qualification is withdrawn
- the ERF project to which it relates is revoked
- a project nominated in the offer was successful in securing a contract since the auction qualification was approved
- the version of the contract [Code of Common Terms](#) specified in the application is no longer offered, including all auction qualifications for Fixed Delivery contracts
- auction qualification criteria have changed so that the auction qualification must be updated to be complete and valid.

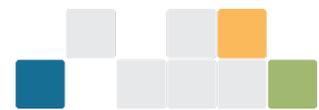
If undertaking an ERF project on land subject to a native title determination or claim, Applicants are encouraged to familiarise themselves with the agency's [detailed guidance on native title, legal right and eligible interest-holder consents](#). For more information, please see [Native Title](#).

The agency may request Applicants to advise whether they have commenced engagement and how far negotiations have advanced with native title holders on obtaining eligible interest-holder consents.

### **Auction registration**

The auction registration further supplements the offer to enter into an Optional Delivery contract and provides the Delivery Terms, including the delivery period, the agreed quantity of ACCUs and the delivery schedule.

The auction registration is only valid for the single auction that is specified in the auction registration application.



## Delivery period and contract term

The delivery period is the period during which the deliveries under the contract may be completed (also referred to as the contract term). There are two main options available, the immediate delivery contract term where ACCUs are on hand for delivery within 45 days from the last date of the auction bid window (unless it is agreed otherwise), and the longer contract term that is up to the maximum 7- or 10-year term that is available (dependent on the method types, as set out below).

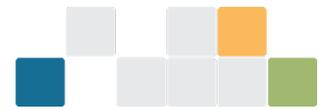
### Maximum contract term

The maximum contract term is 7 or 10 years, depending on the method of the ERF project being brought forward into the auction.

Only ERF projects that utilise one of the following types of method are eligible to apply for a 10-year Optional Delivery contract:

- Estimating Sequestration of Carbon in Soil Using Default Values
- Estimation of Soil Carbon Sequestration using Measurement and Models
- Measurement of Soil Carbon Sequestration in Agricultural Systems
- Sequestering Carbon in Soils in Grazing Systems
- Emissions Abatement through Savanna Fire Management
- Reduction of Greenhouse Gas Emissions through Early Dry Season Savanna Burning
- Savanna Fire Management - Emissions Avoidance
- Savanna Fire Management - Sequestration and Emissions Avoidance
- Avoided Clearing of Native Regrowth
- Avoided Deforestation
- Human-Induced Regeneration of a Permanent Even-Aged Native Forest
- Measurement Based Methods for New Farm Forestry Plantations
- Native Forest from Managed Regrowth
- Plantation Forestry
- Quantifying Carbon Sequestration by Permanent Environmental Plantings of Native Species
- Quantifying Carbon Sequestration by Permanent Mallee Plantings
- Reforestation and Afforestation
- Reforestation by Environmental or Mallee Plantings
- Tidal restoration of blue carbon ecosystems
- Carbon Capture and Storage

All other ERF project method types are eligible to apply for a 7-year Optional Delivery contract.



If you have questions regarding the maximum contract term that is available for your project, please [contact](#) the agency.

The earliest scheduled delivery date for immediate delivery and longer-term contracts should not be within 20 days of the last date of the auction bid window. This is to allow sufficient time to decide and notify applicants of the auction outcomes, and to establish the successful contracts.

## Developing a delivery schedule for longer term Optional Delivery contracts

The agency encourages Applicants to have regard to the following points when developing their delivery schedule for Optional Delivery contracts:

- Ensure that sufficient time is allocated before the first scheduled contract delivery for the ERF project to start and begin generating ACCUs.
- Ensure that sufficient time is allowed before any scheduled delivery for the ERF project to be audited (if required) and the crediting application to be assessed.
  - » Note that up to 3 months is allowed for the agency to assess a complete crediting application and issue ACCUs.
- The number of ACCUs that the project is likely to generate and how many scheduled contract deliveries (milestones) may be possible during the contract term.

### Delivery dates for longer term Optional Delivery contracts

- Delivery milestones later in a financial year may provide more flexibility. This is because early deliveries made in the same financial year are permitted without needing prior approval from the agency.
- To prevent delays in payment, avoid setting delivery milestones on dates which fall between Christmas Day and New Year's Day, or in late June.
- Applicants should avoid setting delivery milestones within the final 4 weeks of the contract term.

**Please note:**

*The undelivered quantity of ACCUs associated with the Scheduled Delivery Date of an Optional Delivery contract will lapse upon the passing of that date.*

The applicant should carefully consider the timing and scale of ACCU deliveries that would be likely under their proposed Optional Delivery contract. The delivery schedule should be within the capacity of the abatement generation profile of the identified ERF project and should not be unduly weighted towards the end of the contract period (known as backloading). Backloading can create delivery risk to the Commonwealth.

**For example,** where more than two thirds of the contracted volume is scheduled for delivery in the second half of the delivery period (and the delivery schedule is clearly not aligned with the expected issuances of ACCUs from the project), the agency would consider the delivery schedule to be backloaded. Negotiations may be undertaken to confirm an acceptable schedule.



## Auction registration restrictions

The agency will not accept an auction registration application in relation to an ERF project if the total quantity offered for sale in that auction registration:

1. will be less than 2,000 ACCUs per year on average over the term of the delivery period, or
2. will be less than 2,000 ACCUs in total, where the delivery period relates to an immediate delivery contract.

## Projects that have transferred to a new or varied method

Only new projects that have not been contracted will be eligible for Optional Delivery contracts. Previously or currently contracted ERF projects that have transferred to a new or varied method that extends the crediting period or creates additional volume will not be eligible for an Optional Delivery contract.

## Soil carbon projects

Proponents of soil carbon projects may be eligible for an advance payment for a certain number of ACCUs from a carbon abatement contract to support meeting the costs of baseline soil sampling. To be eligible for an advance payment, the soil carbon project must either enter a new contract through the auction process and apply for an advance payment contract variation, or be added to an existing contract through agreement with the contract holder. Full details can be found on [the agency's website](#).

## Auction bidding

The auction bid further supplements the offer to enter into an Optional Delivery contract and establishes the Financial Terms of the contract, including the Contract Date and the unit price to be paid by the Buyer to the Seller for each ACCU delivered under the terms of the contract.

If the auction bid is accepted by the agency, then an Optional Delivery contract (based on the [Option to Deliver Code of Common Terms](#) and the terms offered in the auction qualification, auction registration and auction bid) will automatically come into force on the Contract Date.

## Eligible auction bids

An eligible auction bid:

- is submitted in the form approved by the agency by the Authorised Bidder through [AusTender](#) (or, as noted below, where a bid is unable to be made through AusTender and the agency agrees, a bid may be made in accordance with the agency's explicit instructions):
  - » The submitted auction bid form should be returned in the provided Microsoft Word format.
  - » In exceptional circumstances, and if all other bid eligibility requirements are fulfilled, the agency may accept as eligible an auction bid that is unable to be made through AusTender. The agency's advance written permission is mandatory for any submission of an auction bid outside of AusTender, and so the Authorised Bidder should contact the agency immediately if they are encountering technical or other difficulties with the AusTender process. For avoidance of any doubt, the agency will not accept as eligible any auction bid submitted outside of AusTender that has been made without the specific advance written permission of the agency or that has not been made exactly in the way that the agency has instructed.
- contains no errors other than errors that the agency considers, in its sole discretion and acting in good faith, to be minor and immaterial
- is submitted strictly within the Auction Bid window, as published by the agency within these Auction Guidelines



- is submitted on behalf of an Applicant that has registered for that auction in relation to the ERF project
- is submitted by an individual who is an Authorised Bidder of the Applicant, and where neither the Authorised Bidder nor the Applicant has been excluded or disqualified from participating in carbon abatement purchasing processes
- includes the GST-exclusive unit price per ACCU and is an amount rounded to the nearest cent
- is not for a contract that has had a bid withdrawn
- is the first eligible bid made on behalf of an Applicant in the auction in relation to the ERF project;
  - » any subsequent bid made on behalf of the Applicant relating to the same ERF project at the auction will be disregarded.

For the avoidance of doubt, a non-compliant bid is not precluded from being an eligible bid if it is rendered non-compliant by any errors that the agency considers, in its sole discretion and acting in good faith, to be minor and immaterial and if the agency rectifies those errors pursuant to its authority to do so given under these Auction Guidelines.

### **Withdrawal of an eligible auction bid**

An Authorised Bidder of an Applicant may withdraw an eligible auction bid during the Auction Bid window, via the form (available via [AusTender](#)) and means (detailed in the form) approved by the agency. Withdrawal of an eligible auction bid will result in cancellation of the Applicant's registration to participate in the auction for the ERF project to which the bid pertained.

Following withdrawal of the auction bid, all bids submitted for that ERF project at the auction will become ineligible bids and will not be considered by the agency. The Applicant may apply to register and bid for the ERF project relating to the bid at subsequent auctions for which the Applicant is auction qualified.

The agency may withdraw an eligible auction bid on behalf of an Applicant:

- if requested during the Auction Bid window by the Applicant or an Authorised Bidder of the Applicant, and
- if the agency is satisfied that the Applicant or the Authorised Bidder is unable to submit an auction registration withdrawal form during the Auction Bid 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 Auction Bid window has closed, an eligible auction bid cannot be withdrawn. Applicants who wish to withdraw their eligible auction bid are responsible for ensuring that their request is lodged with the agency before the Auction Bid window closes.

### **Ranking eligible auction bids**

All eligible auction bids will be placed in a bid stack comprising only the eligible bids and ranked by price offered, with the lowest price bid being ranked first and the highest price bid being ranked last. Each purchasing decision is to determine value for money and to ensure the purchasing principles set out in sub-section 20G(3) of the [CFI Act](#) are met.

Eligible auction bids within a bid stack offering the same price will be ranked equally and treated equally.



## Determining successful auction bids

In determining which eligible auction bids are successful, the agency will have regard to the principles set out in sub-section 20G(3) of the [CFI Act](#).

To form the bid stack, all eligible bids will be considered and will be assessed in ranked order, starting with the first (lowest price) ranked bid. Applicants are reminded of the need to bid competitively as auction bids will be assessed on the basis of their ability to contribute to least-cost abatement.

The agency will apply a bid analysis tool to the ranked auction bid stack to assess bid prices and volumes based on value for money parameters determined before the auction. Successful auction bids will be selected from the ranked bid stack up to the point that, in the sole discretion of the agency acting in good faith, the combination of bid price and volume offers the best balance between the purchasing principles set out in sub-section 20G(3) of the [CFI Act](#), including purchasing at the lowest cost and securing the highest volume.

The above process for determining successful auction bids from a bid stack is subject to sufficient funds being available to the agency as part of the ERF:

- If the selection of auction bids according to the above process would cause the available funds to be exceeded, then the agency will select whole bids from the bid stack starting from the first ranked bid until the available funds are exhausted.
- If selecting all the auction bids that are ranked equally would cause the available funds to be exceeded, then none of those bids will be selected, nor will any further bids be selected.
- If selecting the first ranked auction bid would cause the available funds to be exceeded, then no bids will be selected.

All auction bids selected as a result of the above process will be successful in securing an Optional Delivery contract.

## Notifying auction results

The agency will notify each Applicant and Authorised Bidder of the result of their auction bid made at the auction as soon as possible after the closing of the auction.

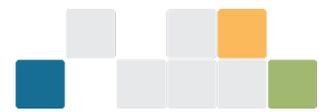
## Information publication

The agency:

- may publish on its website information about an auction, including any summary information or statistics relating to the auction that the agency considers appropriate
- will publish on its website annual (financial year) reports about purchases of ACCUs as required by section 163A of the [CFI Act](#).

The [Carbon Abatement Contract Register](#) will also set out information about each contract that the agency has entered into, on behalf of the Commonwealth, including the:

- name of the Seller and their project
- term of the contract and the number of ACCUs that may be delivered under it
- contract type
- the number of ACCUs the Seller has delivered to the agency.



## **Applicant and Authorised Bidder auction compliance**

### **Obligation not to disclose bidding strategy**

An Applicant or Authorised Bidder must not disclose:

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

For clarity, this obligation does not expire once the auction is completed or when auction bids are determined as successful or otherwise.

Authorised Bidders must not disclose one Applicant's bid or bidding-information to another Applicant including where the Authorised Bidder represents multiple Applicants.

An Applicant or Authorised Bidder is not prevented from disclosing an auction bid, proposed auction bid or bid-related information:

- to the agency
- in the case of an Authorised Bidder, to their Applicant
- to an Authorised Bidder who is nominated, in writing, by the Applicant to submit a bid on behalf of the Applicant
- 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**

An Applicant 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 a failure that occurs 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 agency, or
- take advantage of any other circumstance that may affect the integrity of a carbon abatement purchasing process.

### **Disqualification of an Applicant or Authorised Bidder from participating in carbon abatement purchasing processes**

The agency may disqualify an Applicant or Authorised Bidder from participating in carbon abatement purchasing processes indefinitely or for a specified period, if it believes on reasonable grounds that the Applicant or Authorised Bidder has engaged in misconduct in relation to any scheme administered by the agency.



In deciding whether to disqualify an Applicant or Authorised Bidder, the agency may take into account whether the Applicant or Authorised Bidder has:

- breached a provision of these Auction Guidelines or any previous Auction Guidelines
- breached a direction given by the agency relating to any auction
- engaged in, is suspected to have engaged in or is, in the agency's sole view acting in good faith, likely in future to engage in conduct intended to affect the integrity of any carbon abatement purchasing process
- engaged in, is suspected to have engaged in or is, in the agency's sole view acting in good faith, likely in future to engage in any other conduct that the agency considers relevant, or
- is suspected of breaching any of the following that affects any carbon abatement purchasing process or the conduct of Applicants or Authorised Bidders:
  - » the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth)
  - » the *National Greenhouse and Energy Reporting Act 2007* (Cth)
  - » the *Renewable Energy (Electricity) Act 2000* (Cth)
  - » the *Australian National Registry of Emissions Units Act 2011* (Cth)
  - » the *Corporations Act 2001* (Cth)
  - » the *Competition and Consumer Act 2010* (Cth)
  - » the *Criminal Code Act 1995* (Cth)
  - » any other Commonwealth, State or Territory law that is relevant to a carbon abatement purchasing process, or the conduct of Applicants or Authorised Bidders.

The agency may publish on its website the name of any Applicant 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 Applicant or Authorised Bidder.

## Auction suspension and cancellation

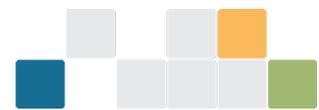
The agency may suspend or cancel the auction if the agency believes on reasonable grounds that:

- the auction cannot continue, or be conducted, in a fair and orderly manner
- it is likely that the auction will not be able to continue, or be conducted, in a fair and orderly manner, or
- the agency forms the view, in its sole discretion acting in good faith, that it is likely that the outcome of an auction may not align with the purchasing principles as set out in subsection 20G(3) of the [CFI Act](#).

The agency may suspend or cancel the auction at any time before it publishes the final outcome of the auction.

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 circumstance that compromises the integrity of the auction process
- a failure or suspected failure by an Applicant or an Authorised Bidder to comply with these Auction Guidelines
- a failure or suspected failure by an Applicant or an Authorised Bidder to comply with a direction given by the agency relating to the auction process, or



- a breach or suspected breach of any of the following that affects the auction or the conduct of Applicants or Authorised Bidders:
  - » the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth)
  - » the *Corporations Act 2001* (Cth)
  - » the *Competition and Consumer Act 2010* (Cth)
  - » the *Criminal Code Act 1995* (Cth)
  - » any other Commonwealth, State or Territory law that is relevant to an auction, or the conduct of Applicants or Authorised Bidders, or
  - » the occurrence, suspected occurrence or possible future occurrence of conduct intended to affect the integrity of an auction.

If an auction is suspended, the agency will restart or cancel the auction within a reasonable timeframe.

- If the agency 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 cancelled, it may be rescheduled, and the date(s) and Auction Bid window of the rescheduled auction will be published on the agency website.

## Key deadlines for ERF Auction 15

Activity	Timeframe	Date*
<b>Project registration application deadline</b>	31 business days before the auction	Tuesday 14 February 2023 (11:59 pm AEDT)*
<b>Auction qualification application deadline</b>	26 business days before the auction	Tuesday 21 February 2023 (11:59 pm AEDT)*
<b>Auction registration application deadline</b>	Five business days before the auction	Wednesday 22 March 2023 (11:59 pm AEDT)*
<b>Closing time for declaration of eligible projects</b>	Five business days before the auction	Wednesday 22 March 2023 (11:59 pm AEDT)*
<b>Auction Bid window</b>	Two days	Wednesday 29 March 2023 (12:01 am AEDT)* to Thursday 30 March 2023 (5:00 pm AEDT)*
<b>Results released, Authorised Bidder notified and average price per tonne of abatement published</b>		As soon as possible after the auction close

\* All times are given as local time in the Australian Capital Territory.



**Business day:**

For the purpose of this document, **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.