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BHUBANESWAR DEVELOPMENT AUTHORITY, BHUBANESWAR

NOTIFICATION

The 17th November 2015

No. 31101—Whereas, the draft of the Bhubaneswar Development Authority Land (Disposal and Allotment) Regulations, 2015 was published as required under Section 125 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982) in the extraordinary issue No. 1279, dated the 1st September, 2015 of the *Odisha Gazette* issued under the Notification No. 23934, dated the 27th August, 2015 of the Bhubaneswar Development Authority inviting objection and suggestion from all persons likely to be affected thereby till the expiry of a period of fifteen days from the date of publication of the same in the *Odisha Gazette*;

And whereas, objections and suggestions received during the period specified above have been duly considered by Bhubaneswar Development Authority.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 124 of the Odisha Development Act, 1982 (Odisha Act 14 of 1982) the Bhubaneswar Development Authority do hereby makes the following regulations, namely :—

CHAPTER - I

GENERAL

1. Short title and commencement :—

- (1) These regulations may be called the Bhubaneswar Development Authority Land (Disposal and Allotment) Regulations, 2015.
- (2) They shall come into force on the date of their publication in the *Odisha Gazette*

2. Definitions :—

(1) In these regulations, unless the context otherwise requires,—

- (a) "Act" means the Odisha Development Authorities Act, 1982;
- (b) "bid amount" means the amount quoted in the bid as the consideration offer by the applicant for obtaining the rights over land as per the conditions of the Public Notice;
- (c) "commercial plot" means a plot of land meant for commercial use;
- (d) "Development Agreement" means an agreement between the authority and the successful applicant for development of land under PPP, wherein detailed terms and conditions of such development have been duly incorporated;
- (e) "earnest money deposit (EMD)" means the initial amount as determined by the Authority payable by an applicant along with his application for securing any land, under these regulations which shall be non-interest bearing;
- (f) "electronic transfer" or "e-transfer" means transfer of money from one account to another account through electronic remittances or any other such methods as approved by the Reserve Bank of India, from time to time;
- (g) "empowered committee" means a committee constituted by State Government under Comprehensive Development Plan Land and Implementation Policy, 2015;
- (h) "end use" means the ultimate use for which the property is allotted;
- (i) "family" in relating to an allottee means husband, wife and unmarried children;
- (j) "financial bid" means the part of Request for Proposal document containing the bid amount as per the format prescribed therein;
- (k) "licensee" means an applicant who has entered into license agreement with the Authority for use of a plot of land as per the terms and conditions as specified in license Agreement;

- (l) "license Agreement" means an Agreement, which defines terms and conditions of the authorization for use of a plot of land by a licensee on payment of fees and charges as specified thereunder;
- (m) "PPP Branch" means such division or group of officials designated by Authority for supervising the duties and responsibilities relating to PPP projects;
- (n) "project information memorandum" means a document prepared under these regulations, for the purpose of development of land under PPP mode;
- (o) "public institutions" means any institution to which the public or any class or section of the public are granted access or any building of such institutions, which is open to public or any class or section of the public and includes any building—
 - (i) used as a school or college or a university or other educational institution, hostel, library, club, lodging house, boarding house, coffee house, hotel, restaurant or hospital, nursing home, dispensary, clinic, maternity center or any other like institution;
 - (ii) used by the Central or any State Government or any local authority or body-corporate, owned or controlled by the Central or any State Government, or public or any class or section of the public for religious worship or for religious congregation;
- (p) "public private partnerships (PPP)" means an arrangement between Authority on one side and a private entity on the other, for the development of land to achieve a specific end use, wherein investments are made by the private sector entity and where there is well defined allocation of risk between the private sector and the Authority and wherein the Authority is entitled to receive payments for allotment of land made in accordance with the terms and conditions of the "Request for Proposal" document and development agreement signed between Authority and the private entity;

- (q) "Request for Proposal" means a document published by the Authority for solicitation of bids through which the interested Applicants can participate in the development of land under PPP where such document defines process of bidding, eligibility conditions and other terms & conditions of the bidding procedure and in which case a draft development agreement is also issued with Request for Proposal document for enabling open, fair and transparent competition between interested Applicants;
- (r) "Reserve price" means the price stipulated as the lowest acceptable price by the Authority for the land being auctioned;
- (s) "successful bidder" means the bidder who is selected under these regulations for allotment of land on auction;
- (t) "Technical bid" means the part of Request for Proposal document containing the technical proposal of the bidder as per the format, terms and conditions provided therein; and
- (u) "Transaction Advisor" means such consultants and experts appointed by the Authority for assisting it in carrying out development of land under PPP mode in accordance with the terms and conditions of scope of services as provided for in the Agreement of their appointment.

- (2) Words and expressions used in these regulations but not defined shall have the same meaning as assigned to them in the Odisha Development Authorities Act, 1982 and Rules made thereunder and Bhubaneswar Development Authority (Planning and Building Standards) Regulations, 2008, as amended from time to time.

3. Modes of disposal of land :—

- (1) The Bhubaneswar Development Authority shall dispose of any land allotted or transferred to it by the State Government or acquired under any law relating to land acquisition or acquired through Town Planning Scheme, Land Pooling Scheme or any other method under any law giving power to do so with or without any development as it shall deem fit by way of the method as prescribed in these regulations.

- (2) The Authority may allot land for any development purposes such as residential, commercial, industrial, public utilities, public institutions, community facilities etc. as deemed appropriate and permitted in accordance with the provisions of these regulations.
- (3) The Authority may allot the land,—
 - (a) through auction;
 - (b) through Public Private Partnerships;
 - (c) to Public Institutions for industrial or religious purposes in such manner as prescribed in these regulations.
- (4) Allotment of additional land shall be made as per the provisions of these regulation.

4. Ownership of land and execution of lease deed :—

- (1) Any land, which is considered for allotment or disposal under these regulations, shall have been transferred or allotted to the Authority by the State Government or shall have been vested with the Authority under the Town Planning Schemes, Development Schemes, Land Pooling Scheme or any other method as prescribed in the Act.
- (2) The Authority shall execute the lease deed or the conveyance deed with the allottee only on payment of all dues.

CHAPTER - II

ALLOTMENT THROUGH AUCTION

5. Allotment by auction—Subject to the development plans and layout plans, such land as the Authority may decide shall be allotted through auction in the manner provided in this Chapter.

6. Public notice and brochure for auction :—

- (1) The Authority shall issue a public notice for auction of designated plots by giving a notice period of at least thirty days in advance which shall be published in at least one English (national) daily and two widely circulated Odia dailies and shall contain in brief the terms and conditions of auction.
- (2) The Authority shall prepare a Brochure for every Auction, giving details as per provisions of these regulations which shall be hosted on the official website of the Bhubaneswar Development Authority and shall contain the following amongst others, namely:—
 - (a) details and location of plots ;
 - (b) location Map and Site Plan ;
 - (c) features of Scheme including price details ;
 - (d) terms and conditions of allotment ;
 - (e) details of earnest money deposit and payment schedule ; and
 - (f) schedule of auction, etc.

7. Eligibility for allotment of residential plots and commercial plots :—

- (1) In case of application for individual residential plots, the eligible applicant must be a citizen of India and must not be less than 18 years of age on the date of application;
- (2) In case of application for residential plots meant for group housing, apartments etc., the eligible applicant must be a company or partnership firm or proprietorship firm or registered co-operative society or Trust having valid registrations as applicable and have such other eligibility criteria as decided by Authority from time to time and all such matters shall form part of the Brochure for auction prepared for same.

- (3) In case of application for individual, small plots for commercial use or for shop, the eligible applicant must be a citizen of India and above 18 years of age on the date of application and such applicant may be an individual or a company or a partnership firm or a proprietorship firm or a registered co-operative society or a Trust having valid registration as applicable and as decided by the Authority, from time to time.
- (4) In case of application for commercial plots meant for Commercial Complexes, multiple uses etc.; the eligible applicant must be a Company or a partnership firm or a proprietorship firm having a valid Trade License issued by concerned Urban Local Body, Sales Tax (VAT) Registration, Service Tax Registration etc. as applicable and on complying to such other conditions as mentioned in the Brochure for auction.

8. Fixing of reserve price— Reserve price for the land shall be fixed by Authority taking into account the prevailing benchmark value of the land, development charges, cost of boundary walls (wherever constructed) and other locational advantages including market value of the land and demand supply scenario in the location.

9. Procedure for submission of application :—

- (1) The Authority shall receive applications in the office of Bhubaneswar Development Authority on or before the scheduled last time and date of submission as fixed in the public notice.
- (2) An applicant shall submit duly filled in application along with other required documents including financial bids as per public notice and Brochure for Auction, issued for the purpose.
- (3) The Authority shall reject such financial bids where bid amount received is lesser than the reserve price fixed for the auction.

10. Terms and conditions for allotment—The plot shall, among other things provided in these regulations and the Brochure, be allotted on following terms and conditions, namely: —

- (a) the allotment shall be on "as is where is basis";
- (b) the plots shall not be used for any purpose other than the end use specified in the public notice;

- (c) the allottee shall be responsible for obtaining water supply, electricity connections and such other municipal services from the concerned agencies at his own cost and also pay holding tax and ground rent to the concerned statutory bodies.
- (d) the Authority may fix charges of fees payable by the applicants for processing of applications and such charges shall be non-refundable in nature except, specifically provided otherwise;
- (e) the allottee shall at their own cost submit, at the time of final payment, a written undertaking to abide by the terms and conditions of auction, on non-judicial stamp paper of appropriate value in the format specified by Authority;
- (f) the plots shall be allotted on lease basis for a period as specified in the Brochure;
- (g) on payment of all dues, the allottee shall execute and register the lease deed with the Authority at his own cost after observing all formalities;
- (h) the Authority shall handover the possession of the plot within thirty days of deposit of duplicate copy of the registered lease deed by the allottee and in case allottee delays to take over the possession, the Authority shall recover from the allottee, the monthly watch and ward charges as decided by Authority;
- (i) the allottees shall develop the plot as per the end use specified in the Brochure and the construction on the plot shall start within a maximum period of eighteen months from the date of signing the lease deed and shall complete within five years from the date of start of construction;
- (j) on completion of construction as per end use specified and after occupancy certificate is obtained from the competent authority, freehold rights shall be given for lands utilised for residential purpose only;
- (k) the allottee may mortgage the plot to raise loan for construction as per the end use specified which shall be subject to such terms and conditions as given in the lease deed entered into between the allottee and the Authority; and

- (l) in case of death of the allottee, mutation of the plot shall be allowed in favour of the legal heirs on submission of necessary documents, who shall act as legal representative of the allottee and accordingly, all actions taken, consents given and approvals made by the allottee shall bind the successors of the allottee in all such respects.

11. Bid security and schedule of payments :—

- (1) The application shall be accompanied with bid security equivalent to ten percentum of the reserve price as Earnest Money Deposit (EMD).
- (2) The EMD shall be in the form of a Demand Draft or pay order of any scheduled bank in favour of Bhubaneswar Development Authority payable at Bhubaneswar and the same may also be transferred electronically by e-transfer, if specified so.
- (3) The EMD may be adjusted towards bid amount in case of successful applicant and in case of unsuccessful applicants, the EMD shall be refunded without any interest within a period of sixty days by e-transfer into the designated accounts of such applicants.
- (4) The bid amount after the adjustment of EMD shall be paid as per the terms and conditions mentioned in the Brochure for Auction and the same shall be subject to following conditions, namely:—
 - (a) For the allotments meant for purpose of individual residential or commercial plots, under sub-regulations (1) and (3) of Regulation 7, respectively, the bid amount shall be paid within four months from the date of auction;
 - (b) For the allotments of residential and commercial plots, respectively, under sub-regulations (2) and (4) of Regulation 7, the bid amount shall be payable in installments over a period of, up to one year, to be specified in the Brochure for Auction.
- (5) If the successful applicant fails to pay the bid amount, the allotment shall be cancelled and EMD shall be forfeited and plot shall be put to fresh auction.

- (6) The Vice-Chairman of the Authority, shall have the power to relax the conditions of payment schedule by providing extensions upto a maximum period of six months for cases covered under clause (a) of sub-regulation (4) and up to a maximum period of twelve months for cases covered under clause (b) of sub-regulation (4), subject to payment of interest at the rate of twelve percentum per annum on unpaid part of the bid amount for the extended period from the applicant.

12. Sale to highest bidder—The officer or a committee of officials conducting the auction shall normally accept, subject to confirmation by Vice-Chairman, the highest bid offered at the auction and in case of more than one applicant quoting the same highest amount, the allotment shall be made through lottery amongst such applicants.

13. Rejection of bid—The officer or a committee of officials conducting auction may, for reasons to be recorded in writing and with the approval of the Vice-Chairman, reject any bid including the highest bid received.

14. Withdrawal of bid—The officer or a committee of officials conducting the auction shall not allow withdrawal of any application which has been accepted by them.

15. Approval by Empowered Committee— For allotment by auction under sub-regulations (2) and (4) of Regulation 7, approval of the Empowered Committee shall be taken for confirmation of sale to the Highest Applicant.

16. Determination of lease— In case of violation of any of the terms and conditions of the lease deed read with the terms of allotment, the Authority may determine the lease deed and re-enter the property, which shall be done under the following circumstances, namely :—

- (a) if the lessee violates any terms and conditions of the lease deed;
- (b) for non-payment of dues such as ground rent or any other charges;
- (c) for unauthorized construction over and within allotted property and encroachment of Government land;
- (d) for misuse of the property;
- (e) for unauthorized sale of the property:

Provided that before determination of the lease, the lessee shall be offered a reasonable opportunity of being heard.

17. Cancellation of public notice—The Authority shall have the power to cancel the public notice for auction and in such cases, the application fees, EMD amount or any other payments made shall be refunded to applicants in full within sixty days of the cancellation notice, through electronic transfer to the designated accounts of the applicants.

18. e-Auction—The Authority may take steps to conduct auctions of various plots and properties through e-Auction to bring more transparency in the process of auction and for taking up such e-Auction, the Authority may, by itself or in collaboration with the Central or the State Government agencies, develop or use such e-Auction method.

CHAPTER - III

DEVELOPMENT OF LAND UNDER PUBLIC PRIVATE PARTNERSHIP (PPP)

19. Development under PPP—The Authority may undertake development of land under PPP mode through transparent competitive bidding process which shall be subject to the regulations as laid down in this Chapter.

20. Request for proposal—The Authority for taking up development of land under PPP mode shall prepare a model Request for proposal and such model shall be followed by Authority for development of land on PPP mode.

21. Project Information Memorandum (PIM) :—

- (1) Project Information Memorandum (PIM) shall form part of the Request for proposal and shall provide details of the project structure and other norms.
- (2) The Authority shall appoint a Transaction Advisor for each of such project and shall get the Project Information Memorandum (PIM) of the project prepared with the help of such Transaction Advisor.
- (3) The PIM shall comprise of the following, namely:—
 - (a) Project summary,—
 - (i) name, location and land area;
 - (ii) project development components and period;
 - (iii) zoning and development controls;
 - (iv) type and duration of property rights;

- (v) bidding parameters and payment schedules;
- (vi) eligibility criteria and bid evaluation parameters;
- (vii) major Conditions of Agreement as deemed appropriate;
- (b) schedule of bidding process;
- (c) project development and bidding process;
- (d) site plan.

22. Deviation from Model bidding documents—Any deviation from Model Request for proposal as prepared under Regulation 20, shall also form part of PIM.

23. Approval by the Authority—Secretary, Bhubaneswar Development Authority, after due scrutiny, with the approval of the Vice-Chairman, shall place the PIM before the Authority for consideration and approval.

24. Request for proposal and other bidding documents—On the basis of the approved PIM by the Authority, Request for proposal including Development Agreement along with conveyance deed in case of residential projects and lease deed in case of commercial projects, shall be prepared with the help of Transaction Advisor and these documents shall be published after due scrutiny, and approval by Secretary, Bhubaneswar Development Authority with the approval of the Vice-Chairman.

25. Bid process management—The Transaction Advisor appointed for a project shall assist the Authority in carrying out entire bid process management and the financial bids shall be opened in presence of an independent observer, who is or has been a District Judge in the State of Odisha.

26. Award of contract and signing of agreement—On the basis of the competitive bidding, the Authority shall select the technically qualified bidder quoting highest value of bidding parameter, as the successful bidder and in case of receipt of single bid or lack of response to the Request for proposal, the bids shall be cancelled and same may be put to bidding afresh.

27. Approval by Empowered Committee for development of land—For the purpose of undertaking development of land under PPP mode, approval of Empowered Committee shall be taken for :—

- (a) project information memorandum;
- (b) before Award of Contract of each project.

28. Monitoring of development agreement and execution of deed—After payment of all fees and charges due and subject to such terms and conditions as laid out in development agreement, conveyance deed in case of residential projects, or lease deed in case of commercial projects, shall be executed with the selected bidder and the PPP Branch shall monitor the project on a regular basis to ensure full compliance by the successful bidder to the conditions of the bid documents and agreements made thereunder.

29. Termination of agreement and consequences—The Agreement shall provide for its termination and related consequences in accordance with the terms and conditions of the Request for proposal and the bidding documents.

30. Arbitration and conciliation—The Bidding Documents including Agreement shall provide for Arbitration and Conciliation conditions in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and the place of such proceedings shall only be at Bhubaneswar.

31. Affordable Housing Projects on PPP :—

- (1) The Authority shall take up development of Affordable Housing Projects on PPP mode, on lands allotted to it by the State Government for that purpose and in such cases provisions of regulations 19 to 30, shall apply *mutatis mutandis*.
- (2) Approval of the appropriate authority of State Government shall be taken as per provisions of relevant policy of State Government instead of approval of Empowered Committee as required under regulation 27.

32. Slum redevelopment projects on PPP—The Authority shall take up Slum redevelopment projects on PPP mode, on lands allotted to it by the State Government for that purpose and in such cases, the provisions of regulations 19 to 30, shall apply *mutatis mutandis* and this shall be subject to the condition that approval of appropriate authority of State Government, as required under relevant policy of State Government shall be taken instead of approval by Empowered Committee as required under regulation 27.

CHAPTER - IV

ALLOTMENT OF ADDITIONAL LAND

33. Allotment of additional land contiguous to a plot—The left out patches of land which cannot be used otherwise or developed as independent residential or commercial plots, can be allotted to the land owner, who has a plot contiguous or adjacent to it.

34. Price of allotment—The additional land shall be allotted on payment of price, which is equivalent to double of the Bench Mark Value, as on the date of allotment of such additional land.

35. Committee's recommendation—The Authority shall constitute a committee under Section 6 of the Act which shall scrutinize and finalize its recommendations on the applications received for allotment under these provisions and accordingly the same shall be allotted only after obtaining approval of the Authority.

36. Eligibility for allotment of additional land—The following conditions shall be followed for allotment of additional land to applicant, namely :—

- (a) there must be no encroachment of public road, drain or land of State Government or statutory body by the applicant;
- (b) original allotted land or property must have been utilized for the purpose for which it was allotted;
- (c) adequate justification must exist for allotment of such additional land.

37. Additional land allotted to be part of original land or property—Any land which is allotted under this chapter shall be deemed to be part of original land or property and the rules and regulations applicable to the original land or property shall be applicable to the additional land, unless specifically provided otherwise.

CHAPTER - V

ALLOTMENT TO PUBLIC INSTITUTIONS

38. Allotment of land for public institution—The Authority on approval of Empowered Committee may allot land to public institutions which are eligible as per regulation 39.

39. Eligibility—Allotment of land to public institution shall be made on fulfilment of the following conditions according to its aims and objects, where :—

- (a) it directly serves the interests of the people of the Bhubaneswar development area ;
- (b) it is generally conducive to the planned development of the Bhubaneswar development area;
- (c) it is apparent from the nature of work to be carried out by that public institution that the same cannot be carried out elsewhere in that area with equal efficiency.
- (d) it is a society registered under the Societies Registration Act, 1860 (21 of 1860) or is owned and run by the Government or any Local Authority, or is constituted or established under any law for the time being in force or is a company, firm or trust;
- (e) it is not for profit object;
- (f) it is in possession of sufficient funds to meet the cost of land and the construction of buildings for its use; and
- (g) recommendation for allotment of land to such institution must be from respective Department of the Government of Odisha.

40. Premium for lease—The allotment shall be on payment of such lease premium as decided by the Authority, from time to time, and the same shall not be less than the benchmark value fixed for similar land use in the same area.

41. Approval by Empowered Committee—The allotment for these purposes shall be done only with the prior approval of the Empowered Committee .

CHAPTER - VI

MISCELLANEOUS

42. Allotment of land for religious purposes—No land shall be allotted for construction of any temple, church, synagogue, mosque or for any other religious purpose nor shall permission be granted for change of use of the demised land for above purpose without the previous sanction of the State Government.

43. Allotment of land for industrial use—The Authority with the approval of the Empowered Committee may allot any land for the purpose of industrial use and the terms and conditions given in the Chapter-V of these regulations shall apply, *mutatis mutandis*.

44. Temporary allotment of land—The Authority, subject to these regulations and in such cases as it deems fit, may allot land for temporary periods on a license basis, in accordance with the terms and conditions of the license agreement and such license agreement may also contain other covenants, clauses or conditions as may be considered advisable and necessary by the Authority, keeping in view the circumstances of each case and such covenants, clauses or conditions shall not be inconsistent with the provisions of these regulations.

45. Delegation of power—The Authority may delegate all or any of its powers under these regulations to Vice-Chairman or any Member or any Officer of the Authority or any committee constituted for the purpose under Section 6 of the Act.

46. Power to prepare manual for disposal and allotment of land—The Authority shall prepare a manual on disposal and allotment of land on basis of these regulations wherein detailed standard operating procedures may be laid out by Authority, and the same shall be prepared within sixty days of the notification of these regulation in official Gazette and a copy of manual shall be made available on the official website of the Authority for information of all concerned.

47. Extension of provisions of the BDA Property (Management and Allotment) Regulations—For the matters not specifically covered under these regulations, provisions of Bhubaneswar Development Authority Property (Management and Allotment) Regulations, 2015 and manuals made thereunder shall be applicable, as extended by notification by Authority from time to time.

48. Direction of the State Government to be supplementary to the regulations—The directions given, from time to time, by the State Government shall be supplementary to, but not in derogation of, the provisions of these regulations.

49. Removal of doubts—If any doubt arises, relating to the interpretation, scope or application of these regulations, decision of the Authority shall be final.

50. Conflict between regulations and provisions of lease or conveyance Deed—

In the event of there being any conflict between the provisions of these regulations and the provisions of the lease or conveyance deed entered into by the Authority under the purview of these regulations, the provisions of these regulations shall prevail.

51. Power to relax regulations—In exceptional cases, where Authority is satisfied that the operation of any provisions of these regulations causes hardship in any particular case or, where the Authority is of the opinion that it is necessary or expedient in public interest to do so, it may relax the provisions of these regulations with the approval of the State Government.

By order of the Authority

RANJAN KUMAR DAS

Secretary

Bhubaneswar Development Authority

Bhubaneswar