

## Case-4: Flexibility in utilization of coal in IPP Stations

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### 4.1.2. Bid Validity

Validity period of offer of Bidder shall be till the time of signing of Power Purchase Agreement (PPA).

### 4.1.3. Bid Security (Earnest Money Deposit (EMD))

- i. The Bidders are required to submit Bid Security for the capacity which they wish to offer @ Rs. 30,000/- per MW on RTC (30 days, 24 hours) basis and same shall be reduced on pro-rata basis in case bids are invited on hourly basis, in the form of Bank Guarantee / eBank Guarantee issued by any Nationalized/Scheduled Bank or Electronically Transfer through payment gateway provided by ..... in the portal. For Example: For a requirement of 1 MW, 45 days, 4 hours, the EMD shall be Rs. 30,000 x (45 days/30 days) x (4 hours / 24 hours) = Rs. 7,500/-
- ii. The EMD shall be forfeited:
  - If Bidder withdraws bid during Bid Validity Period.
  - For non-submission of Contract Performance Guarantee by Successful Bidder(s).
- iii. The EMD shall be refunded to the unsuccessful Bidders within 10 days of expiry of Bid validity period.
- iv. The EMD of the Successful Bidder(s) shall be refunded after furnishing the Performance Guarantee (PG).

## 4.2. RFP Bids

### 4.2.1. Bidding parameters

- i. The Bidders shall quote the Tariff (Rs per unit) for the quantum of power offered by the Bidder. The Quoted Tariff should be the landed cost of power at the Delivery Point including Transmission charges and Transmission losses. The Delivery Point shall be the State Periphery.
- ii. A Bidder shall quote for a minimum Bid quantity of 100 MW or 50 % of the quantity required by the Buyer, whichever is lower.

### 4.2.2 Bid Evaluation

- i. The Bidders who have quoted Tariff more than the Ceiling Tariff shall be disqualified during RFP Stage and their Bids shall not be considered.
- ii. Bidders shall be arranged in the order of least quoted tariff to next higher Quoted Tariff. The Bidder with the least quoted Tariff shall be the 1<sup>st</sup> Selected Bidder. If the power offered by the 1<sup>st</sup> Selected Bidder is equal to or more than the Power required by the State then he will be the Successful Bidder. If the power offered by the 1<sup>st</sup> Selected Bidder is less than the Power required by the State, then he will be the 1<sup>st</sup> Successful Bidder and the balance power requirement will be procured from the 2<sup>nd</sup> Selected Bidder at the tariff quoted by them and so on.
- iii. If the Buyer's balance power requirement after Bucket filling is less than the available quantum offered by next Bidder, then the Bidder may accept or reject that quantum of balance power being offered. In case the Bidder rejects, successful Bidders in order of least quoted tariff shall be requested to provide balance power.

## Case-4: Flexibility in utilization of coal in IPP Stations

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- iv. The Buyer can accept or reject the tariff being discovered through e-Reverse bidding and annul the Bidding process without assigning any reason.

### 4.3. E-AUCTION PROCESS:

- i. The process of bidding shall be conducted electronically. For this purpose, provisions like registration, log in, downloading and uploading etc. in the e-Bidding portal shall be specified in the Bid document. The link for the e-Bidding portal shall be available on the website of Ministry of Power ([www.powermin.nic.in](http://www.powermin.nic.in)). An event involves both e-Tender and e-Reverse auction process. Each event of the auction would require independent Digital Signature of the Bidder. An event may have requirement of power at different time and period.
- ii. The process of e-Bidding shall be conducted online, in accordance with the provisions laid herein. Each e-Bidding event shall comprise of two parts i.e. e-Tender and e-Reverse Auction. An event may have multiple requisitions (i.e. independent requirements of power at different time or places). To participate in the event each Bidder will have to specify the source(s) of power for that particular bid. Each bid will have only one price per requisition accompanied by total quantum of power, the Bidder intends to supply and minimum threshold quantum acceptable to the Bidder. However, the Bidder shall have the option to choose the requisition of an event in which it intends to participate. Each of the bid will have to be signed by the Digital Signature of the Bidder.
- iii. To ensure competitiveness, the minimum number of Bidders should be at least two for each requisition. If the number of Bidders responding to the RFP is less than two, and Procurer still wants to continue with the selection process, the selection of that single Bidder may be done with the consent of the Appropriate Commission.
- iv. RFP bids submitted along with RFQ shall be considered as the Initial Price Offer (IPO) by the bidders.
- v. After the opening of Initial Price Offers, the system will rank the Bidders according to their price bids.
- vi. The Bidder with the highest price bid in IPO stage will be called the H1 Bidder. If the total quoted quantity is greater than twice the Requisitioned Quantity, the Highest Bidder(H1) will be eliminated provided that the total quoted quantity after elimination is not less than or equal to twice the Requisitioned Quantity.
- vii. The shortlisted Bidder after elimination will be intimated individually by system generated emails only. The Reverse auction should start within 120 minutes of opening of Initial Price Offers The Bidding will not close after 120 minutes and there shall be automatic extension by another 15 minutes if a revised bid is received in the last 15 minutes of the 120 minutes auction slot. During the Reverse Auction the Bidders will have the option of reducing the tariff quoted by them in decrements of one paise or multiples thereof and to increase the quantum quoted by them by 1 MW or multiples thereof. During the Reverse Auction the prevailing Lowest Tariff would be visible to all the Bidders.
- viii. The Bidders will have the option to increase the quantum of power upto corresponding to the value of **EMD submitted along with RFP (IPO)**, but decrease the Tariff during the e-Reverse Auction process.
- ix. The Bidder after the e-RA process will be ranked in accordance with the tariff offered in ascending order. The list would also include the name, quantum offered and tariff quoted by those qualified Bidder(s) who have not changed the quantum of power and

## Case-4: Flexibility in utilization of coal in IPP Stations

tariff from IPO stage to e-RA stage. The Bidder(s), in order of their rankings, offering the quantum of power upto the requisitioned capacity would be the Successful Bidder(s). The Buyer shall procure power from the Successful Bidders in the order of their rankings decided on the basis of tariff quoted by them until the entire Requisitioned Capacity is met. In case of a tie at any stage, the successful bidder shall be selected through draw of lots amongst the tied bidders.

- x. The Buyer shall have the right to issue Letter of Award (LoA) to the Successful Bidder(s) [Selected Bidder(s)] in the same order to fulfil its requirement, which can be lower than the Requisitioned Capacity but not less than the quantum of Lowest Bidder. In the event Buyer rejects or annuls all the Bids, it may go for fresh Bids hereunder. In case the Buyer fails to issue the LoA within a period of 15 days from the close of e-Reverse Auction, the Successful Bidder(s) shall have the option to exit without forfeiting the EMD.
- xi. In case the LOA is issued but Selected Bidder(s) is/are not in a position to fulfil the requirement, the EMD/PG shall be forfeited as the case may be.
- xii. After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by the Buyer to the Selected Bidder(s) and the Selected Bidder(s) shall, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder(s) is not received by the stipulated date, the Procurer may, unless it consents for extension of time for submission thereof, forfeit the EMD of such Bidder as Damages on account of failure of the Selected Bidder(s) to acknowledge the LOA.
- xiii. After acknowledgement of the LOA by the Selected Bidder(s), the Buyer shall cause the Selected Bidder(s) to execute the PPA within the prescribed period in the Bid document i.e. within 15 days from the close of the e-Reverse Auction. The Selected Bidder(s) shall not be entitled to seek any deviation, modification or amendment in the PPA. The Buyer would appropriate the EMD of such Bidder as Damages on account of failure of the Selected Bidder(s) to execute the PPA. In case the Buyer fails to sign the PPA within the period prescribed above, the Selected Bidder(s) shall have the option to exit without forfeiting the EMD/PG as the case may be.

### 5. TIMELINES FOR BIDDING PROCESS

SN	Event	Timeline
1.	Notice inviting RFQ/RFP Bids	Zero date
2.	Submission of RFQ/RFP Bids	30 Days
3.	Opening of RFQ Bids	31 Days
4.	Announcement of successful Bidders for RFP Stage	38 Days
5.	Simultaneously, intimating the names of successful bidders at RFQ stage to the Railways and getting the consent of the Railways for feasibility of transportation of coal	45 Days
6.	Opening of RFP Bids	46 Days
7.	Announcement of Successful Bidders	53 Days
8.	Issuance of Letter of Award to successful Bidders	60 Days
9.	Signing of Power Purchase Agreement	67 Days

### **6. PERFORMANCE SECURITY (PS)**

- i. The Seller shall, for the performance of its obligations under this arrangement, provide to the Buyer no later than 30 (thirty) days from the date of signing of Power purchase Agreement, an irrevocable and unconditional guarantee from a Schedule Bank for a sum equivalent to Rs. \*\*\*\*\* crore (Rupees \*\*\*\*\* crore) (the “Performance Security”) for a period of (\*\*\*) months.
- ii. Until such time the Performance Security is provided by the Seller pursuant hereto and the same comes into effect, the Bid Security shall remain in force. In the event Performance Security is not provided by the Seller within a period of {30 (thirty)} days from the date of this Agreement, the Buyer may encash the Bid Security and appropriate the proceeds thereof as Damages and the PPA, shall be deemed to have been terminated with the consent of the Seller.
- iii. The Successful Bidder(s) may be required to furnish Bank Guarantee (BG) within 10 days from the date of selection of Successful Bidder(s) for an amount calculated at Rs. 2 lakh per MW per month (30 days, 24 hours) of contract period or part thereof. The PG for the procurement of power on hourly basis shall be calculated on pro-rata basis as per the example given above for calculating EMD.
- iv. The PS shall be in the form of Bank Guarantee issued by any Nationalized/Scheduled Bank and valid for the period of Contract with a claim period of 1 month after the expiry of contract period.
- v. In the event, the BG is not furnished within the stipulated date, the EMD submitted against the Notification shall be forfeited.
- vi. The BG provided by the Successful Bidder(s) shall be forfeited for non-performing the contractual obligations. The BG should be released within 30 days after completion of Contract Period.

### **7. APPROVAL OF TARIFF**

The quantum of power procured and tariff discovered through the bidding process shall be within the approved Annual Revenue Requirement (ARR) / Tariff Orders of the respective year by the appropriate commission, and the same will be considered to have been deemed approved by the said Commission.

### **8. RESPONSIBILITIES OF EACH PARTY**

#### **8.1. SELLER (IPP)’s Responsibility**

- i. Obtaining Open Access as per the relevant regulations of the appropriate commission for the quantum and duration of power supply under this arrangement. However, the situation such as Non-grant of Open Access/quantum not granted open access to the successful Bidder shall be treated as “Force majeure” and there will be no liability on either parties. The open access shall be as per CERC Regulations as amended from time to time.
- ii. Signing of Agreement for use of coal and supply of required power by the Seller (Between Buyer and Seller)

## Case-4: Flexibility in utilization of coal in IPP Stations

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- iii. Responsible for making available the contracted quantum of electricity
- iv. Coordination with State, Railways regarding Mine end management, transportation of coal from mine to plant site
- v. Making regular advance upfront payment to the Buyer against the estimated quantum of coal to be transferred, as communicated by the Buyer to the Seller. Buyer shall then make payment to the Coal Company (CIL Subsidiary/SCCL).
- vi. RLDC/SLDC charges to be borne by the Seller.
- vii. Providing Performance Security to the Buyer as per requirement
- viii. All Excise Duty/Cess/Taxes on coal as applicable on the date of bidding shall be paid by Buyer and reimbursed by Seller.
- ix. Making regular payments to the transporter (Railways/Shipping/Road) including demurrages, etc. for transportation of coal from Mine to IPP generating station.
- x. Any increase in freight charges on account of transfer of coal or in transmission charges shall be borne by the Seller during the contract period.
- xi. To intimate the concerned SLDC/RLDC/IPC about such arrangement as and when finalized.

### **8.2 BUYER (STATE)'s Responsibility**

- i. Arrangement for supply of coal to Seller from Coal Company (CIL/SCCL)
- ii. Signing of Agreement for use of coal and supply of required power by the Seller (Between Buyer and Seller)
- iii. Procuring power up to the contracted quantity.
- iv. Assisting Seller for procuring statutory clearances as per requirement.
- v. Making regular payments to the coal companies (CIL Subsidiary/SCCL).
- vi. Buyer to provide necessary assistance to Seller for coordination with coal company and transporter. The details of the quantum of coal to be moved and the time frame during which this transportation is required would be conveyed to Traffic Transportation Directorate of Railway Board (Ministry of Railways)
- vii. The Buyer shall bear the third party sampling charges of the quantum of coal being transferred.
- viii. Any increase in cost of coal, duties and taxes on coal shall be borne by the Buyer during the contract period.
- ix. Buyer shall ensure that actual schedule shall not fall below on an average 80% of the contracted power on monthly basis and not below technical minimum as specified by the CERC for each time block as per approved open access. Buyer shall pay compensation at 10% of Tariff per kWh for the quantum of shortfall below 80% on monthly basis.

### **9. TARIFF PAYMENT**

- i. The tariff discovered through competitive bidding would be paid corresponding to the energy scheduled subject to Force Majeure.
- ii. Payments will be made on month to month basis and there will be no escalation in Tariff during the period of the contract.

## Case-4: Flexibility in utilization of coal in IPP Stations

- iii. The Power will normally be scheduled at the bid tariff for the purpose of its consideration in the merit-order dispatch.
- iv. Seller shall have the flexibility to offer tariff less than the bid tariff on day-ahead basis in order to ensure increase scheduling of power.

### **10. SCHEDULING AND DESPATCH**

- i. The scheduling and despatch by RLDCs/SLDCs under this arrangement shall also be as per relevant regulations of the appropriate commission.

### **11. BILLING AND PAYMENTS**

- i. The Seller shall raise the Bills for the energy supplied under this arrangement and scheduled by the Buyer/beneficiary on monthly basis based on the Regional Energy Accounts (REA) issued by the concerned Regional Power Committee within 2 days of issuance of REA.
- ii. The Buyer shall pay the Bills within 30 days of receipt of the Bill for the respective month ("Payment Due Date"). In the event the Buyer pays the Bill within 5 (five) days of the date of receipt of the Bill thereof, it shall be entitled to deduct 1% (one per cent) of the amount comprising the Tariff by way of discount for early payment. A late payment surcharge at a rate of 1.5% per month shall be payable in case the Bills are not settled within 30 days from the receipt of Bill.
- iii. Buyer shall secure to Seller monthly bill payment by way of an unconditional, irrevocable and revolving Letter of Credit (LC) in favor of Seller.

### **12. PAYMENT SECURITY MECHANISM**

#### **12.1. Letter of Credit**

Buyer to open an unconditional, irrevocable and revolving Letter of Credit (LC) in favour of Seller valid for a period of contract period or 12 months whichever is lower. The amount in the letter of credit shall be two (2) times average monthly billing. The LC shall be opened not later than 30 days before the Scheduled Delivery Date i.e. date from which supply need to be commenced as per PPA. The Buyer has to renew the LC at least one month before the expiry of existing LC. Delay in Opening of LC/ Renewal of by seven (7) days shall be considered an Event of Default by Buyer.

### **13. ASSESSMENT OF COAL QUANTITY AND RECONCILIATION**

#### **13.1 Coal Quantity Evaluation**

- i. Buyer will evaluate the amount of coal to be allocated to the successful bidder for producing the quantum of power specified in the bid.
- ii. For this evaluation, the GCV of coal to be used will be corresponding to the grade of coal specified by Coal Company and vetted by Third Party sampling for the mine/linkage source.
- iii. Gross Station Heat Rate (kcal/kWh) shall be used for coal quantity calculation. The following may be considered for Gross Heat Rate:

## Case-4: Flexibility in utilization of coal in IPP Stations

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The Bidder may indicate the unit size and the Gross Heat Rate from which they propose to supply power. The Gross Heat Rate to be considered for coal quantity calculations shall be the Gross Heat Rate specified by the Bidder or as specified by CERC for equivalent unit capacity which ever is lower.

### **13.2. Reconciliation of Coal Quantity**

- i. The coal quantity shall be reconciled every quarter with respect to coal consumed for generation and supply of electricity to the Buyer corresponding to quality and quantity of coal at loading end. Normative transit losses as per prevailing CERC Regulations shall be applicable.
- ii. Any excess/shortfall quantity of coal transferred to the Seller shall be adjusted in the next quarter. The quality of coal at loading end shall be as vetted by Third Party sampler.
- iii. After reconciliation, if extra coal remains after the contract period, Bidder will supply equivalent energy to the Buyer at the same terms & conditions within 25% of the contracted period.
- iv. Any consequence due to shortfall in the supply of coal, as a result of factors solely attributable to the Seller, will be borne by the Seller.
- v. In the event of shortfall in the supply of fuel from the coal company as reported by the Seller, Buyer will have the option of either asking for a reduced quantum of supply to the extent of fuel availability or Seller can use other sources which may be available at the time with the consent of Buyer. Any such excess fuel utilized from other sources for generating power towards the contracted capacity will be intimated to Buyer in advance and is to be reimbursed at actuals as agreed between the parties.

### **14. EVENTS OF DEFAULT**

#### **14.1. Treatment in case of Transmission constraint**

The parties are at liberty to extend the duration of supply of power for the quantity of coal transferred at the same Tariff corresponding to the duration of transmission constraints.

#### **14.2. Sellers event of default**

- i. Delay in commencement of supply within 7 days from the Scheduled Delivery Date.
- ii. Shortfall in quantity of agreed supply of power for the factors attributable to the Seller
- iii. Use of Buyer coal for supply to third party without consent of Buyer.

#### **14.3. Treatment in case of Sellers event of default**

- i. Upon occurrence of a Seller Default, the Buyer shall be entitled to terminate this Agreement by issuing a Termination Notice to the Seller. Provided that before issuing the Termination Notice, the Buyer shall, by a notice, inform the Seller through post/e-mail of its intention/reason to issue such Termination Notice and grant 15 (fifteen) days time to the Seller to make a representation, and may after the expiry of such 15 (fifteen) days, on consideration of the reply submitted by the Seller, if any, issue the Termination Notice.
- ii. Upon Termination on account of a Seller Default, the Seller shall pay to the Buyer, by way of Termination Payment, an amount equal to 10% of the energy that would have