

## **8. Tenure of Transfer Agreement**

The tenure of the Transfer Agreement shall be decided by the Sponsoring Transco on a case-to-case basis and may normally be coterminous with economic life of the asset in case of RTM assets or residual license period in case of TBCB assets. In case of bundle of assets under RTM that have been commissioned on different dates, the tenure may either be calculated based on effective date of COD, i.e. the weighted average date of COD or be limited with the asset which was commissioned earliest.

## **9. Technical Due Diligence**

The Sponsoring Transco will preferably appoint an independent technical consultant for carrying out technical due diligence of the assets. The technical report will preferably include asset profile, and latest line patrolling reports. The Asset Profile must contain relevant data regarding the line i.e. voltage level, line configuration i.e. S/C or D/C, specifications of conductor etc. and specifications of the substations or converter stations (in case of HVDC line). The Asset Profile shall give the actual route with route length, type of terrain, maximum altitude, snow zones, wind zones, forest / wildlife infringement, infringement of endangered species habitat, vicinity to civil and defense Airports, major river/sea crossings & coal/ mineral mine areas likely to be encountered and location of substations or converter stations. The report shall also cover the environment, safety, Quality Control, operational and maintenance procedure/standards being followed, the historic availability of the assets, availability of spares parts, security, insurance and the risk analysis.

## **10. SPV Enterprise Value**

The Sponsoring Transco will preferably appoint an independent valuer for carrying out financial valuation of the assets. The valuer shall submit a comprehensive valuation report to the Sponsoring Transco. Asset enterprise valuation will preferably be done based on Discounted Cash Flow ("DCF") method. The Enterprise Value so determined may be reckoned as an undisclosed reserve value for bidding process by the Sponsoring Transco to enable an efficient price discovery of asset<sup>2</sup>.

## **11. Key Agreements and salient features thereof**

### **11.1 Transfer Agreement**

The Sponsoring Transco may enter into a Transfer Agreement with the Investor Entity. This agreement shall inter-alia cover aspects related to transactions for purchase of shares by the Investor Entity at the beginning of the transaction as well as by the Sponsoring Transco at the end of tenure of Transfer Agreement, besides usual

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<sup>2</sup>There is precedence of this approach as the same has also been adopted by NHAI in case of bidding for TOT based projects and by AAI in case of leasing of brownfield airports through PPP.

provisions of any agreement such as roles and responsibilities, risk allocation, dispute resolution etc.

#### **11.2 *Transmission Service Agreement (TSA)***

In case of TBCB assets, the pre-existing TSA shall continue to apply to the SPV, after the latter has been taken over by the Investor Entity. In case of RTM assets, the Sponsoring Transco may enter into a tripartite agreement with the new SPV as well as Investor Entity for assignment of its rights under the existing Transmission Service Agreement/Bulk Power Transmission Agreement to the newly created SPV provided that the terms and conditions of existing Transmission Service Agreement/Bulk Power Transmission Agreement shall not be altered. In case of absence of existing Transmission Service Agreement/Bulk Power Transmission Agreement, the TSP on the date of acquisition of SPV may enter into a Transmission Service Agreement (TSA) with the CTUIL (in case of interstate projects) / the concerned utilities as advised by STU (in case of intra State projects).

- 11.3 The TSP shall enter into other agreement(s), if required, under Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) or any other agreements mandated through regulations framed by the Appropriate Commission, as amended from time to time, within fifteen (15) days from the date of acquisition of the SPV.
- 11.4 The TSP shall be responsible for operation and maintenance of all the transmission assets in accordance with best practices and relevant rules and regulations read in conjunction with guidelines thereof issued by the Central Electricity Authority and Appropriate Commission.
- 11.5 The TSP shall ensure that all the assets are kept free from encumbrances. The equipment shall be maintained with all safety aspects and as per the CEA (Measures related to Electric Safety and Supply), Regulations, 2010 as amended from time to time. The TSP shall maintain data and communication link with the State Load Dispatch Centre (SLDC) or Regional Load Dispatch Centre (RLDC) as the case may be and adhere to its directions for operation of the assets and any shutdown activity for planned maintenance, emergency should be done in concurrence with the SLDC/RLDC. On occurrence of any Force Majeure event necessitating the tripping of equipment, the TSP shall inform the SLDC/RLDC immediately and adhere to the instructions received from them.
- 11.6 The TSP shall ensure the availability of the transmission system to be at least or higher than normative availability (in accordance with TSA in case of TBCB assets or as specified by the Appropriate Commission in case of RTM assets) for the last 3 years of the tenure of the Transfer Agreement, failing which a penalty to be specified in the Transfer Agreement shall be imposed. The Transfer Agreement may mandate

the TSP to provide the required assistance to the Sponsoring Transco for smooth return of ownership.

## **12. Tariff**

In case of TBCB assets, the tariff adopted by the Appropriate Commission, as applicable during the tenure of the Transfer Agreement, shall continue to be collected by the SPV, subject to the provisions of TSA. In case of RTM assets, the Appropriate Commission may specify a premium, which may be provided over and above the prevailing return on long term government securities (5 yr G-Sec) to arrive at the rate of return on equity applicable for the tenure of the Transfer Agreement. This shall be done prior to the process of monetization is undertaken by the Sponsoring Transco. Other parameters for determination of tariff for RTM assets shall be in accordance with the Tariff Regulations specified by the Appropriate Commission from time to time.

## **13. Bidding and evaluation**

- 13.1. The Investor Entity shall be selected in accordance with these guiding principles, through a fair and transparent bid process which may be undertaken by the Sponsoring Transco with credible and professional transaction advisers.
- 13.2. The Sponsoring Transco may at its option either adopt a two-stage process featuring separate Request for Qualification (RfQ) and Request for Proposal (RfP) or adopt a single stage two envelope tender process combining the RfP and RfQ processes. The bidding process may preferably be conducted online through electronic medium. If desired, e-reverse auction may be adopted. In this context, while developing bidding documents, Model RfQ and Model RfP for PPP projects notified by the DoE, Ministry of Finance may be relied upon.
- 13.3. The bid documents so developed shall, interalia, include the technical report submitted by the technical consultant, the Transfer Agreement, the Transmission Service Agreement and minimum qualification criteria to be met by the bidders and any other standard bidding related requirements.
- 13.4. The technical criterion for eligibility may include companies and Investment Trusts, having experience in development and/or operation & maintenance of infrastructure projects. However, the Sponsoring Transco may opt for specific O&M experience in transmission sector also. The financial criterion may be a pre-specified net-worth in relation to a certain percentage of the estimated book value of assets (may be kept at 25% of such value).
- 13.5. The bidder may be given an opportunity to inspect the underlying asset base within a prescribed time window and in a manner specified in the bidding documents. Maintenance record of major equipment(s) for past three years or from the COD whichever is earlier, may be allowed to be inspected by the bidders.

- 13.6. The notice for RfP may be published in accordance with applicable procedures of the respective Sponsoring Transco suitably so as to accord it wide publicity. The bidding may preferably be done by way of International Competitive Bidding (ICB), subject to Government of India orders issued from time to time.
- 13.7. As is a normal practice in case of PPP projects, the Sponsoring Transco may undertake pre-bid interaction and may preferably provide written responses to pre-bid queries by prospective bidders / participants, and the same may be made available to all the other bidders.
- 13.8. The bidder quoting the highest Upfront Payment may be selected as Investor Entity.

#### **14. Payment Security Mechanism**

Collection and disbursement of transmission charges shall be done in accordance with relevant Regulations of the Appropriate Commission.

The payment security to TSP shall be as per relevant rules issued by the Ministry of Power from time to time.

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