



**TALWANDI SABO POWER LIMITED**

**Reply to queries submitted by bidders/suppliers against tender following tender specification no.**

**EOI/44/CM/TSPL/2014-15**

As schedule for bidding process of above referred tender document, please check below the reply to queries submitted by various bidders/suppliers.

1. The tender was issued on 01<sup>st</sup> Jan 2015 and due date for submission of bid is 08th Jan 2015. We request extension of Bid submission date by at least 3 weeks as we need to arrange for EMD bank guarantee, End user certificates (as per your format), financial supporting certificates, authorization letter from mine owners (clause 2. vii. Of annexure E) and same shall take time in view of short time for submission and ongoing holidays at Miner's end. Other similar tenders do allow at least 1 month for preparation of documents.

**TSPL Reply: - TSPL may refer to relevant supporting certificates submitted to TSPL against previous coal tender. Meanwhile all updated supporting certificate can be submitted at time of issuance of LOI/contract.**

2. TSPL have requested for EMD of Rs 1 Cr through Bank Guarantee. However, the validity required for Bank Guarantee is not mentioned. Kindly clarify. Further, as per tender document, bank guarantee should be operative at Bhatinda / Mansa. Request you to kindly accept the Bank Guarantee operative at Patiala branch also.

**TSPL Reply: - Validity for BG would be 6 months. We confirm that the said bank guarantee operable at Patiala shall be acceptable by TSPL.**

3. Clause 10.0 Period of Validity of Bid, 2<sup>nd</sup> paragraph; "TSPL reserve all right to extend the Bid Validity period in such circumstances". Please advise the circumstances in which the Bid validity shall be extended. As this is a fixed price bid, understand that bidder shall be given an option to not extend the validity beyond the initial period of 60 days from the last date of submission of bid.

**TSPL Reply: - Extension of Bid Validity would be at Discretion of TSPL.**

4. Please advise if Punjab State entry tax is applicable for supplies to TSPL?? If yes, then who shall bear the entry tax for the supplies and how it needs to be incorporated in price bid format. Further, if presently TSPL is availing exemption on Punjab State entry tax and in future if such exemption is withdrawn, then it should be on TSPL's account.

**TSPL Reply: - TSPL is exempt from the payment of advance tax leviable on import of goods into the State of Punjab and in case the said exemption is withdrawn in future, the same shall be paid directly by TSPL to the statutory authorities.**

5. Page 23/63 – Clause 7.0 TSPL's Conditions precedent – The obligations stipulated in this tender are as per PSERC conditions and in case of any change in the interim period till contract execution, same shall be applicable to this tender document/contract and the terms of this bidding documents shall stand modified to the extent prescribed by PSERC .

Such conditions shall be applicable provided there is no additional financial obligation on the bidder due to such modifications. Kindly confirm.

**TSPL Reply: - The obligations stipulated in the Contract are as per PSERC conditions and in case of any change, same shall be discussed & decided mutually by the Parties.**

6. Force Majeure - It should include the restrictions imposed by Government / Government agencies / Indian Railways in allotment of rakes affecting Bidder in carrying out its responsibilities.

Further, adverse weather conditions notified by relevant authorities should form force majeure irrespective of them being in excess of statistical measures for the last hundred (100) years.

**TSPL Reply: - Force Majeure**

**Force Majeure for Imported Coal shall mean any event or circumstances or combination of events or circumstances (including effects thereof) beyond the reasonable control of Supplier which materially and adversely affects, prevents, delays any Supplier in the performance of its obligations under this Back-To-Back Agreement, Side Agreement and Agreement and which were not reasonably foreseeable and the**

effect of which the affected party would not have prevented or dismissed or overcome by the exercise of reasonable skill and care. The Force Majeure events for Imported Coal shall include all the Force Majeure events as per Side Agreement, Agreement and the following events without limitation:

- a. Strikes, work stoppages, work slowdowns or other labor action (including act by Supplier employee)
  - b. Acts of war (whether declared or undeclared). Invasion or civil unrest;
  - c. Any unusually severe weather conditions, other than those conditions which are reasonably foreseeable including adverse weather conditions during sea transportation
  - d. Any direction to Supplier, by any court of law or judicial authority or government authority in India and/or source country, for any action or omission for compliance of Law;
  - e. Confiscation, nationalization, mobilization, commandeering or requisition by or under the order of an government or de facto authority or ruler or any other act of any local, state or national government authority of India or source country; or
  - f. Any Government Agency's unreasonable delay, denial or refusal to grant or renew or unreasonable revocation or any required permit, license, approval or authorization, including Government Authorizations which prevent Supplier to supply the Imported Coal to Purchaser
  - g. Any Change in Law after the date hereof materially adversely affecting the performance by Supplier of its obligations hereunder.
  - h. Global shortage of Imported Coal or no response to enquiries for supply of coal or logistics constraints in transportation of Imported Coal
  - i. Unavailability, obstruction or blockage of the loading port or discharge port or transportation system upto Delivery Point
  - j. Damage to, or breakdown of, any of the Wharf and/or loading gear at the loading port or discharge port
7. Termination by giving 1 month notice – While the termination notice is given by TSPL to Bidder, TSPL should accept any cargo already left from load port / reached discharge port for TSPL.

TSPL Reply: - Not Acceptable

8. Page 31/63, Clause 3.0 ii. – Tentative breakup of quantity to be delivered at plant is not there in Annexure A as mentioned. Please advise the tentative schedule of quantity to be delivered at plant.

TSPL Reply: - The tentative schedule of quantity to be delivered at plant can be discussed at time of issuance of LOI/Contract.

9. Page 31/63, Clause 3.0 iii. – To supply imported coal, the vessel needs to be planned and there is going to be sailing time of the vessel from Load port to discharge port. Thus request you to kindly allow 45 days from the date of LOI to commence supplies if not more.

TSPL Reply: - Delivery Schedule can be discussed at time of issuance of LOI/Contract subjected to preference would be given to bidder delivering material at earliest to TSPL.

10. Page 31/63, Clause 3.0 iv. – The notice period for change of schedule shall be ten days or fifteen days as there is contradiction in the clause. Further, any such change in schedule should be mutually discussed and agreed.

TSPL Reply: - Acceptable

11. Please allow tolerance of quantity upto 1 rake quantity (i.e. +/-4000 MT) in the delivery schedule quantity.

TSPL Reply: - Tolerance of quantity equivalent to normal rake loading quantity is allowed subject to no extra payment for the quantity delivered over & above contractual quantity.

12. Quality –

- a. We suggest the quality adjustment / penalty / rejection should be for weighted average basis for total rakes supplied against the contract, instead of rake wise as weighted average results would be ideal representative of quality.

TSPL Reply: - Not Acceptable

- b. As per standard international practice, the final quality should be arrived at lab of third party independent inspection agency appointed by Buyer and / or Seller instead of analysis at TSPL plant laboratory.

TSPL Reply: - Not Acceptable

- c. Sampling, Sample preparation and analysis at TSPL shall be carried out jointly by Plant, TSPL's nominated IIA and our representative / our nominated IIA.

TSPL Reply: - Not Acceptable

- d. One sample should be given to Bidder's representative / Bidder's IIA for analysis at their end.

TSPL Reply: - Sample to be given to bidder's representative/bidder's IIA in case of dispute only.

- e. Referee sample to be kept in the joint custody of Bidder's IIA & TSPL's IIA instead of TSPL. In case, the referee sample analysis is required, the third party analysis lab and location for such analysis should be mutually discussed and agreed.

TSPL Reply: - Not Acceptable

- f. Bidder should have option to go for referee sample analysis in case the results of Bidder's IIA and TSPL plant lab goes beyond interlab tolerance.

TSPL Reply: - In case of analysis result goes beyond tolerance level then referee sample may refer.

- g. Under normal circumstances, analysis of sample takes upto 7 days. Hence, TSPL should submit the analysis test report within 7-8 days of receipt of rake at plant as 45 days is too long a period for releasing the results.

TSPL Reply: - Not Acceptable. TSPL may submit the analysis test report once detailed analysis is done.

13. Quantity Determination:

- a. The weighment system at TSPL plant must be calibrated, sealed and stamped in accordance with the weights and measure (W&M) Department of Government. Further, the certificate issued by W&M department should be provided to Bidder by TSPL at the time of award of contract.

TSPL Reply: - Not Acceptable

- b. In case, the weighbridge at TSPL plant is showing abnormal variation / showing considerable difference in received weight wet RR weigh, TSPL to get its weighbridge calibrated upon the request of bidder. Till the time the weighbridge is rectified / duly calibrated, RR weight shall be considered as receipt weight at TSPL.

TSPL Reply: - Not Acceptable

14. Adjustment of quality variation :

- a. The adjustment of quality should be on the weighted average of quantity supplied instead of on rake to rake basis.

TSPL Reply: - Not Acceptable

- b. In accordance with international standards, adjustment of GCV (ARB) itself accounts for impact of TM (ARB), thus there should not be any further adjustment on account for TM. Moreover, the adjustment of TM (ARB) as mentioned in Tender is too high.

TSPL Reply: - Not Acceptable

- c. There should not be no penalty on AFT IDT value as no miner guarantees penalty/ rejection on AFT (IDT). Further, the amount of penalty quoted by TSPL for AFT IDT is extremely high.

TSPL Reply: - Not Acceptable

15. Payment Terms:

- a. Understand that TSPL shall provide the rake results within 45 days after receipt of rake at plant and balance 30% payment can only be claimed after adjustment of quality/quantity basis such results, which shall be paid within 30 days of submission of such documents. In effect it means a period of 75 days or more for releasing balance 30% payment which is very high and substantial amount of payment shall be blocked for such period. Thus request you to kindly provide the rake results within 7-8 days of receipt of rakes at plant, enabling the Bidder to reduce the payment cycle time.

TSPL Reply: - Not Acceptable

- b. Request you to kindly consider accepting supplies against LC.

TSPL Reply: - Not Acceptable

16. LD Clause: - There should be a grace period of 3-4 weeks before LD clause comes into effect for the circumstances beyond the control of Supplier.

Further, the applicable rate for LD charges should be charged @ 1/10 % (One tenth of the one percent) of the value of delayed consignment for each week's delay or part thereof subject to a ceiling of 1% (One percent) of the Total Contract Price inclusive of taxes & duties.

TSPL Reply: - LD may be charged on the value of delayed consignment.

17. Volume III Clause 14, Performance review: As per sub clause b) the contract may be terminated / short closed for request of Bidder for change of delivery schedule, however, as per clause c) if TSPL ask for change in delivery schedule and Bidder is not able to accept the same, it will also be deemed as non-performance. Please appreciate, we shall have to plan the vessel based on your given schedule and hence any last moment change might be difficult to accommodate.



TSPL Reply: - Not Acceptable

18. TSPL has asked for bid validity of 60 days, which is a long period especially in the present situation with volatility in cost of coal, freight as well as currency. Suggest, the price should be index linked (Similar to other tenders) instead of being fixed price, which will enable bidder to quote aggressively.

TSPL Reply: - Not Acceptable

19. TSPL have reserved the right to part close the contract without assigning any reason. As the contract is between two parties, it should be mutually agreed by both parties to short close the contract or should be substantiated with valid reason.

TSPL Reply: - Not Acceptable

20. TSPL have asked for right to extend the quantity at the same terms and conditions, including price. In view of high volatility, such extension for additional quantity should be subject to mutual discussions and agreement.

TSPL Reply: - Acceptable

21. Rake Weighment: As per railway circular, the net weight of rake is arrived by deducting wagon fix/standard tare weight as notified by Railways through circular.

TSPL Reply: - Not Acceptable

22. Claim of Missing wagons/diverted rakes: As per railway circular, only consignee can claim refund for diverted rake which in your case will be TSPL and bidder will not be able to claim for the same. Thus request you that our payment should not be held up because of the same.

TSPL Reply: -The Bidder shall ensure that rakes are delivered to the consigned station only i.e. TSPL Coal Handling Plant (Siding Code: MTSS 03103015). In case the rakes are diverted by the railways for any reason(s), beyond the control of the Bidder, Bidder shall furnish advance intimation and RR and other necessary details to the concerned station immediately on diversion of rake. The diverted rakes shall not be counted as received by TSPL. However, TSPL shall, as per the discretion of Bidder, either being a

consignee claim the refund from the railway authorities for the missing wagons /diverted rakes or provide the required documents to be presented in railways, in favour of Bidder to claim such refunds. TSPL on realizing any such claim shall pass over the same immediately to the Bidder without any extra liability to TSPL

23. Specification of Coal : -

- a. The rejection of parameters of ash analysis is not required by any of the customers as no miner shall be able to agree on the rejection of same. Thus it is requested to remove the same from the tender specs.

TSPL Reply: - Not Acceptable

- b. Similarly FC /VM ratio as quoted by you in the tender is not available in most of the standard Indonesian / South African / Any other origin coal (considering it also matches with proximate parameters desired by TSPL). Removing such restriction of FC/VM ratio would give more flexible fuel options of coal being quoted to TSPL by bidders.

TSPL Reply: - Not Acceptable

- c. Request relaxation of proximate analysis parameters of coal to be supplied with relaxation on TM, S enabling more grades of coal to qualify for supply.

TSPL Reply: - Not Acceptable