

**Replies to Pre Bid Queries(Post Clarification Queries) to Tender No.PNMM/PC-176/E-4001 dated 24.09.2020  
For Coal to Methanol (C2M) Project through Coal Gasification route on Build-Own- Operate (BOO) Basis at Dankuni Coal Complex, West Bengal, India.**

09.04.2021

SL. NO.	REFERENCE OF BIDDING DOCUMENT				BIDDER'S QUERY	OWNER'S / PMC REPLY	BIDDER'S REPLY	OWNER'S / PMC REPLY	
	Section	Page No.	Clause No.	Subject					
1		2	15	2.3.3 & Note (ii)	Financial Criteria	As per this clause the Bidder should submit solvency certificate not more than six months old for a value of INR 19 billion or submit credit rating Note (ii) allows the financial criteria only mentioned in 2.3.1 & 2.3.2 to be satisfied by Holding Company. Even this criteria in 2.3.3 should be allowed to be fulfilled by Holding Company	As per clarification, refer Sl. no. 5 of Amendment-VII dated 10.02.2021.	However, the clarification does not cover this point as it refers to net-worth. Hence, clarification is still awaited	Bidder may submit Solvency Certificate of the Holding Company and / or Group Company. Other Conditions of Financial PQC shall remain same.
2		2	27	Annexure 1.	Format of Financial Details of Holding Company	As mentioned in point 2 above, APCI year ending is Sep. Hence, the clause should be accordingly worded to give this option  Enclosed Audited Balance-sheet and Profit & Loss Statements : APCI being listed in NYSE its audited financial statements are available n public domain. Hence, that copy downloaded from Public Domain should be acceptable or more clarity required on acceptable copy?  Letter of Undertaking with Board Resolution : Can the Board Resolution be done away with, since the letter of undertaking would be signed by an Authorised Signatory. Also Power of Attorney would be submitted.  Appendix A to Annexure 1.22 - Requires to be signed by CEO / CFO. This is not required since financial statements of AP India are considered in consolidated financial statements of APCI. Hence, this should be deleted. Please confirm.  Appendix B to Annexure 1.22 - please check the note 2 & 3 regarding the liability and undertaking by APCI by executing this Appendix	Our recommendations have not been accepted by CIL.		NIT clause along with subsequent amendments prevails
3		5	54	22.2	Taxes & Duties	A statement indicating that "the rate prevalent against SAC code 9988 at the time of invoicing will be charged by BOO operator" should be added. The 12% is current rate and could get changed between bid date and actual billing date. It is SAC code and not HSN since it is services.	These wordings have not been added.	Bidder insists to add the suggested wordings so that there is no ambiguity in future.	NIT clause along with subsequent amendments prevails.  Biider to further note that GST rate prevalent at the time of invoicing shall be reimbursed as per actuals.

4	5	55	23.1	Security Deposit / Perf Bank Guarantee	The Bank Guarantee in lieu of Security Deposit (SD) is generally provided to cover the plant construction period. The SD is converted to a Performance Bank Guarantee (PBG) after plant start-up which is generally renewed every year and cannot be valid for 25 years.	The clarification states period of 5 years for BG and then to be rolled over.	This is not acceptable to Bidder. Bidder requests Owner to make the PBG to be renewed or rolled over on an annual basis (i.e. once in a year). This is a standard methodology accepted by other PSU companies in executed BOO contracts in recent past.	NIT clause along with subsequent amendments prevails
5	6	81	15.1	Prices and Adjustment/ Regulation of Prices of Product	The documents mentioned in this clause for payment towards invoices have no connection and hence there should be no need to submit these documents other than invoices / those required by regulations. Hence, this should be deleted. Please clarify.	Not accepted	Bidder requests Owner to clarify why these documents are required for payment towards our Invoices. As per Bidder these documents have no connection with the monthly Invoices. Hence, this should be deleted.	NIT clause along with subsequent amendments prevails.
6	6	86	17.3	Taxes & Duties	The impact of change in taxes should be 'at any time from the effective date' instead of 'at any time during the contract period'  This clause mentions only 'new law', and it should be amended to include any change in existing regulation leading to increase in cost of operations for BOO Operator.	This point is not changed: The impact of change in taxes should be 'at any time from the effective date' instead of 'at any time during the contract period'		Bidder 's understanding is correct. Any new law or Amendment to the existing law resulting in additional cost implication during the contract execution period shall be paid extra at actuals.
7	6	11 of 56	2.1(bb)	Interpretation	It is not appropriate that "time is of the essence" for every single obligation given the potential consequences . Owner to specify which obligations are subject to "time of the essence"	NIT clause prevails.	Bidder's comment still stands (e.g in theory, if AP submits an invoice late that gives owner the right to terminate the contract which cannot be considered equitable)	NIT clause prevails.
8	6	20 of 56	10.5	Installation and First Delivery	Please modify as ".....BOO Operator will invoice Owner, and Owner will pay the Fixed Monthly Charges and any additional costs incurred by the BOO Operator during the plant idling period for preservation, equipment hiring, maintenance and paying site contractors for such extended period, etc as set forth ....."	NIT clause prevails.	In the event BOO Processor/Bidder is ready to commission the coal to methanol facility as per agreed time schedule but Owner is not in a position to supply the coal and utilities or Owner is not in a position to off-take the Methanol for any reasons which is not attributable to the Bidder, then in that case Bidder or BOO Processor may incur additional expenses for preserving the plant and equipment by arranging temporary Power from DG sets and by temporary installation of Plant Air compressors, Nitrogen supply for purging/blanketing, etc. During such circumstances, Owner shall reimburse such additional costs incurred which is not covered under the current provisions in the contract.	NIT clause along with subsequent amendments prevails.

9	6 28 of 56	17.3	Taxes & Duties	Owner has added the words "by amendment or revision in the existing laws".		Suggest to amend this as follows ""by amendment or revision in the existing laws or the introduction of new laws". Changes to existing laws and imposition of new laws need to be addressed	refer clarification mentioned at SI No. 6 above.
10	6 32 of 56	21.2	Safety, Health	Please add: "There are no express warranties by BOO Operator other than those specified in this Article. No warranties by BOO Operator (other than the warranty of title) shall be implied or otherwise created, including but not limited to warranty of merchantability and warranty of fitness for a particular purpose".	NIT clause prevails.	Bidder's comment still stands. Bidder cannot accept warranties implied by law to be part of the contract. Bidder will only give warranties contained in the contract	Not acceptable, NIT clause prevails. Further, Bidder's query does not appear relevant to the referred Article.
11	6 40 of 56	new 28.9	Liability	BOO Operator accepts liability for damage to Owner's property to the extent that such damage results directly from any breach of contract including damages resulting from off-spec products to Owner (unless Owner has knowingly accepted offspec product) or negligence in connection with performance of this Agreement. Liability for damages to property or in tort in connection with this Agreement will be the cost of actual damages per event or maximum of Rs. xxx Crores per year, whichever is lower	NIT clause prevails.	Bidder's liability for property must be capped at an agreed amount	NIT clause along with subsequent amendments prevails.
12	6 40 of 56	29	temporary takeover	Please delete this Clause since temporary takeover is neither acceptable nor practical	NIT clause prevails.	to be discussed further in light of indemnities that will be required while plant is under control of owner and hold harmless provisions required if this clause remains	NIT clause along with subsequent amendments prevails.
13	6 40 of 56	30.1(a)	termination and takeover	Please modify as "The BOO Operator has abandoned the Project or has suspended work on the Project for consecutive 6 (six) months or more"	NIT clause prevails.	6 weeks proposed by owner is too short. Bidder once more requests for "consecutive 3 months or more".	NIT clause along with subsequent amendments prevails.
14	6 41 of 56	30.3	termination and takeover	Please modify to "Owner shall give written notice to BOO OPERATOR, if the events are capable of remedy....."		Owner to consider Bidder's original query	The following bidder's request is accepted: "Owner <del>may</del> shall give written notice....." Remaining clause remains unchanged.
15	6 43 of 56	31.1(i)A	force majeure	Please add catastrophic failure of critical equipment in the first year of operation	NIT clause prevails.	Bidder's comment stands. Owner to confirm.	Not acceptable. NIT clause along with subsequent amendments prevails.
16	6 43 of 56	31.1(i)B; 31.1(ii)B and C	force majeure		NIT clause prevails.	references to 24 hours can be accepted by Bidder. Bidder rejects all references to 7 days	Not acceptable. NIT clause along with subsequent amendments prevails.

17	6	50 of 56	39	Non-assignability	Please modify as "This Agreement the contract and the benefits and obligations thereof shall be strictly personal to BOO Operator and shall not on any account be assignable or transferable to a third party by BOO Operator without having obtained in writing the prior approval of Owner. Notwithstanding anything to the contrary contained in this Agreement, the Owner may, after giving notice to with the prior written consent of the BOO Operator, assign and/or transfer any of its rights and benefits and/or obligations under this Agreement to an assignee, such consent not to be unreasonably withheld or conditioned if who is, in the reasonable opinion of the Owner demonstrates that the proposed assignee is capable of fulfilling all of the Owner's obligations under this Agreement and has the financial standing necessary for this purpose".	NIT clause prevails.	Bidder's comment stands. Bidder has to have the ability to determine who it has a contract with for, among other things, credit risk and know-your-customer compliance. Bidder already agrees not to be unreasonable in providing consent	Not acceptable. NIT clause along with subsequent amendments prevails.
18	6	30 of 56	20	Insurance	None of Bidder's comments have been addressed		Please refer to attached word document with proposed Insurance clause. This requires detailed discussion between insurance experts since the current Insurance clause in the ITB is not acceptable to the Bidder.	NIT clause along with subsequent amendments prevails.
19	6		45.4	Indemnity - new attachment from PDIL/CIL	Wording of first half of 45.4(a) and 45.4(d) should be identical; no reason for indemnity obligation to be unbalanced. Owner to make necessary changes to make the wordings identical .			NIT clause along with subsequent amendments prevails.
20	6	85 of 726	16	Guaranteed Ratios for Consumption of Feed and Utilities	Owner to note that Bidder shall provide guaranteed ratios for consumption of feed (i.e. coal) and utilities (ie. Power and water) at only 100% plant capacity. These guaranteed ratios are not valid if the coal to methanol plant operates at turndown, i.e. at capacities lower than 100% since the guaranteed ratios are not constant or linear at all operating points between 100% and minimum turndown capacities. Owner to confirm this understanding and this clause should be amended accordingly.			Bidder to note that the Guaranteed Consumption ratios of Feed (Coal) & Utilities (Power & Water) shall be 100% of the installed capacity of Methanol.
21	6	83 of 726	15.2	Price of Methanol	Please delete the last line "Price for Methanol shall be paid based on the actual quantity of Methanol supplied by BOO Operator to owner", since this is a Tolling Model and there is no Price for Methanol that is applicable. The only charges that will be invoiced by BOO Processor are conversion charges, i.e. the Fixed Monthly Charges (FMC) and Variable Charge (VC) per MT of Methanol.			Bidder to note that "Price" implies to "Conversion Charges" .
22	6	83 of 726	15.4	Regulation/Adjustment of Prices of Feed/Utilities	As per standard BOO Agreements executed by PSU Cos. in the past, any such adjustments shall be carried out <b>once in a year (on annual basis)</b> . Owner to specify overall Annual cap/limit on such adjustments/penalty beyond the allowable limit of guaranteed ratio of feed and utilities. Also, the unit rates of feed and utilities applicable for such price adjustments shall be based on the unit rates provided in the tender document and shall not be arbitrarily increased during the term of the Agreement.			NIT clause along with subsequent amendments prevails.

23	Amendment-VII	33 of 94	New Clause	Penalty and Risk Purchase	Bidder requested annual cap to be specified on such penalties.	The overall cap on Liabilities payable by BOO Processor under Article-27 of this Agreement will be limited to Rs.108 Crores per year.	Owner to confirm that such Penalties/Liabilities under Article-27 of this Agreement shall be calculated and levied once in a year, i.e. on annual basis as per standard BOO Agreements signed with PSU Cos. in the past.	NIT clause along with subsequent amendments prevails.
24		5 10 of 27	12.0	BID SUBMISSION		Link for submission of BID		Bidder to kindly note that bids are to be uploaded in CPP( e-Procurement) Portal the link for which is as given below: <a href="https://eprocure.gov.in/eprocure/app">https://eprocure.gov.in/eprocure/app</a>