

TORRENT POWER LIMITED

INVITATION TO OFFER - II / 2017

FOR SUPPLY OF LNG

(CY 2018, CY 2019 AND CY 2020)

Dated 9th June 2017

Clarifications by TPL to Bidders

Uploaded on TPL's website on 23rd June 2017

In response to the above referred Invitation, Bidders have sought clarifications on various matters, with respect to "Invitation to Offer-II/2017" document. Queries from Bidders are being replied to the respective Bidders by e-mail. In the interest of transparency and fairness to all Bidders, a summarised gist of important queries received by TPL and TPL's response thereto are tabulated below, for the benefit of all Bidders. The queries have been classified under broad heads for ease of reference and suitably generalised, where required. Reference to specific Bidders is removed. Queries specific to a Bidder only, are not included in the table.

Sr. No.	Query	Clarification by TPL
Timeline		
1	Could you better clarify what do you mean with "responsible authorities"?	'Responsible Authorities' would mean any person having authorisation to attend the bilateral meeting with TPL, negotiate and make Binding offers on behalf of their Organisation.
2	What is the timeline Torrent looking to sign a binding deal ?	It is not possible to predict precise timelines at present. However, the same will be mutually defined upon selection of the Shortlisted Bidder/s.
Information on the Bidder		
1	"Unsold Quantities" such information is sensitive therefore request you to drop this requirement. However, if need be, such information can be submitted after being shortlisted.	The information is useful to judge the feasibility & capability of the Bidder for the effective fulfillment of TPL's requirement. If at this point of time, the Bidder prefers not to provide these information, then in any case the same will have to be provided for further consideration of a particular Bidder, if shortlisted.
Master Agreement		
1	Although we understood the execution of the MSPA is a precondition for the submission of the Indicative price Offer, we would like to know whether the Indicative Price Offer could be considered as valid in case the MSPA is finalized but not yet signed or signed only by the Bidder.	Once the draft MSPA has been agreed upon by both the parties, the Bidder may sign the same and send the executed copy to TPL before submitting the bids. Such executed MSPA only by Bidder shall be considered valid.
2	Bidder is already in advance discussion on MSPA and the same is on the verge of conclusion pending clarification on couple of points. Pls. clarify if the Bidder can participate or not, if MSPA could not be executed by the offer submission deadline (but can be done subsequently).	Execution of the MSPA is a pre-requisite for bidding; please refer to para 4 of the ITO-II/17 document.

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Supply Term		
1	Could clarify whether a Bidder is obliged to offer for all the three CYs or does he have the option to do so even only for one or two CY?	TPL's preference is for all the three CY as mentioned in clause 15.1 of the draft Confirmation Memorandum, however, the Bidder has the option to offer cargos for one or two CY subject to para 6.3 of ITO-II/17 document.
Quantity		
1	Will the bidder be penalized for not bidding for all the quarters in all the calendar years subject to a minimum of 2 quarters?	Please refer to para 15 of the ITO-II/17 document which clearly gives out the Buyer's preferences for evaluation.
2	Assuming a Bidder has offered X cargos, would TPL have the right to award to such Buyer any number of cargos between 0 (zero) and X ?	Your understanding is correct.
3	According to 6.3 of the ITO, bidders shall offer all the required cargos in a Quarter. In case bidder propose only 1 or 2 cargo(s) in a Quarter, will you immediately disqualify such proposal? Or can you consider such offer if price level is competitive?	As per para 6.3 of the ITO-II/2017 document, Bidders need to offer all the cargos in a quarter and should offer a minimum of 2 (two) quarters in any CY.
4	<ul style="list-style-type: none"> o Is there any flexibility in terms of Seller offering a different supply pattern like 1 cargo / quarter or 1 cargo / 2mth ? o Is there any flexibility in terms of offering only 1 quarter? 	
LNG Specifications		
1	LNG Specifications - Remove the words 'and Heavier' in case of Propane and Butanes	These specifications have been provided as per the agreement with PLL. Hence no deviations shall be possible. If the Bidder wishes to provide different specifications which they feel may be of interest to TPL, the same can be shown along with the Price offer as per Annexure 1 - please refer para 8 of ITO-II/17.
Indicative Price Offer		
1	Can you consider ICE Brent for 1 month prior to delivery month?	Definition of Brent _m is as mentioned in the ITO-II/17 document.
2	Please confirm whether individual prices per cargo within each Quarter can be provided, or Seller is required to provide only one price per Quarter to apply to all cargoes to be delivered within the Quarter.	<ul style="list-style-type: none"> - As per para 10.1 of the ITO-II/2017 document, Bidders have to submit only one indicative price per quarter. - You are requested to please adhere to the requirements as mentioned in the ITO-II/17.
3	Our preference is to offer a single price for the entire contract versus breaking it down into quarters, can you please confirm that you will be receptive to that idea? In the event if you choose to pick and choose particular quarters to award, we will be happy to make you a fair market value for that quarter. But our strong preference is that you award basis our full proposal.	
4	Is Torrent willing to consider alternative pricing basis, including gas indexation or a fixed price?	You are requested to please adhere to the requirements as mentioned in the ITO-II/17.

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Credit Support		
1	Assuming that we shall provide open credit; please confirm that Torrent will reciprocate by relaxing the need for a Performance Bond. If such treatment is not forthcoming, please clarify the total value of the Performance Bond to be provided by Seller.	The need and value of the performance bond, if any, shall be discussed with the Shortlisted Bidder/s at the appropriate time.
2	Please clarify whether Performance Guarantees can be provided by Buyer (on reciprocable basis).	
3	Would it be possible to extend the validity of the SBLC?	Validity of the SBLC, if so desired by the Seller, shall be as defined in clause 18 of the draft Confirmation Memorandum.
4	Considering this being a Term/ Strip deal , will Torrent be open to provide more than 1 cargo SBLC ?	If SBLC is desired by the Seller, TPL shall provide SBLC on a per cargo basis and hence if there is an overlap, TPL shall provide SBLC for both the cargos.
5	Please confirm that format provided in Annex 2 and Annex 3 is negotiable.	Annexure 2 and 3 are not negotiable. However, if so desired, the deviation in terms and conditions may be included in your Indicative Price Offer Letter at appropriate place in para B(3). You are requested to refer to para 15 of the ITO -II/17 document on evaluation criteria.
6	Clause 7 of the LC : for ease and efficiency we would like to permit communications to be electronic as well.	The draft prepared is based on discussions with TPL's Bankers in India. The mode of communication can be discussed at the time of finalising the Confirmation Memorandum.
7	Credit Support - Please advise the list of scheduled Indian banks which will be the issuer of the SBLC and which banks Torrent will use for confirmation?	As provided in clause 18 of the draft Confirmation Memorandum, if the SBLC is desired by the Bidder, the same shall be provided issued by a commercial bank in India duly confirmed by a first class international bank outside India. Currently we use State Bank of India, IDBI Bank, HDFC Bank and Bank of Baroda who are our bankers, for the purposes of issuance of SBLC.
Evaluation		
1	Art.15.4 What is the content and purpose of the document called "Letter of Award" ?	Letter of Award will be a letter accepting the Binding Offers of the Bidders. It will be followed by signing of Confirmation Memorandum within 5 working days.
2	Do you prefer to award single bidder for all the cargoes? Is it possible to award multiple bidders?	TPL reserves the right to select multiple bidders.
3	Evaluation: In evaluation criteria want to understand if an offer for the entire volume of 36 cargoes will be evaluated positively?	Please refer to para 15 of the ITO-II/17 document which clearly gives out the Buyer's preferences for evaluation.
Confidentiality		
1	Art.17 Would TPL undertake confidentiality obligations with respect to the content of the Offers ?	Yes, TPL shall be bound by confidentiality obligations.

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LNG Ship / Substitute LNG Ship		
1	Can TPL please specify the size range of LNG ships allowed to be used? (e.g. 130 to 180k m3). Important in case TPL will notify an alternative unloading port.	Any vessel which would be acceptable at Dahej port shall be acceptable to the Buyer. The size of the ship and its compatibility with the unloading port will have to be ascertained for each cargo including that of alternate port.
Estimated Unloaded Quantity		
1	Para 6.2: Please confirm whether the Delivery Quantity limit per cargo is based on energy content or volume.	<p>The EUQ is 3.2 Tbtu +/- 5% flexibility as mentioned in clause 4 of the draft Confirmation Memorandum.</p> <p>Mention of volumetric quantity is for reference. PLL terminal at Dahej accepts the vessel in the range of 125,000 cu.mtr to 175,000 cu.mtr. Hence the volume may be within this range.</p> <p>Please refer above.</p> <p>As long as the delivered quantity is within the range mentioned, neither party shall incur liabilities with respect to a failure to deliver or a failure to receive.</p>
2	Is there any flexibility offering a more usual cargo size i.e. 3.5 Tbtu +/-5% or 155,000 m3 +/-5% ?	
3	EUQ - " Seller shall confirm the EUQ and volumetric quantity atleast 30 (thirty) days prior to the Scheduled Arrival Window of the LNG cargo." Please explain what do we need to confirm? EUQ is already 3.2 tbtu.	
4	Clause 6.2 (page 6): Could TPL accept a slightly higher EUQ and corresponding volumetric quantity (e.g. 143,000m3) while maintaining the operational tolerance as proposed in the bid document (i.e. 0.16 TBtu and 2,800 m3)?	
5	With respect to the actual quantity of LNG to be delivered by Seller, is the intent that the actual quantity delivered must be within +/- 5% of the nominated EUQ and comply with the above range limits? Provided LNG is delivered in this range, neither party shall incur liabilities with respect to a failure to deliver or a failure to receive.	
Delivery Profile / Annual Delivery Plan		
1	With the bidder having to provide a price per quarter, can we assume that the 3 cargoes per quarter will be scheduled for delivery maximum 1 per month? If this is not the case, can the bidder indicate individual prices for each month within the quarters, as there can be a significant price impact between months and reduce the Bidder's competitiveness?	<p>Yes, you may assume that the delivery will be scheduled for delivery of maximum 1 cargo per month. Hence, in ordinary circumstances, delivery profile shall be evenly spread over the concerned year.</p> <p>Bidders are required to quote their indicative prices per quarter basis as mentioned in para 10 of the ITO-II/17 document.</p>
2	For clarification purposes, the ADP prepared by Seller is a pro forma ADP based on the binding ADP shared by Petronet?	<p>The Seller ADP will have to adhere to the SAW as agreed in the Terminal ADP by the Buyer.</p>
3	Due to formulation of ADP with the project, Seller should have a right to propose the ADP plan and Seller and Buyer should discuss adjustment of ADP. Therefore we would like to propose "Seller's notification of ADP draft", "Buyer's reasonable endeavor to consider the Seller's ADP" or similar provision.	

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4	<p>o Is there any flexibility in terms of a wider delivery window , to be narrowed “x” days before ?</p> <p>o Can Seller provide you a SAW as a part of normal ADP discussion, which can be discussed with your Dahej terminal operator. Or SAW is only one way which Dahej operator allocate to you ?</p>	<p>The Terminal ADP is prepared keeping in view the requirement of energy by the Buyer and the slots available at the terminal.</p> <p>The same shall be binding on the Seller as mentioned in clause 6 of the draft Confirmation Memorandum.</p>
5	<p>Please advise if profile of cargoes awarded (including Calendar Years, Quarters, Delivery Months) will be notified at time of Letter of Award</p> <p>Please confirm that awardee will know profile of cargoes awarded (including Calendar Years, Quarters, Delivery Months) prior to the Seller ADP applicable to the relevant Calendar Year.</p>	<p>Letter of Award shall give out the quantity and quarters for each CY awarded to the Bidder.</p> <p>Awardee shall be informed on the ADP as per the explanation provided in clause 6 of the draft Confirmation Memorandum.</p>
6	<p>Please explain how the Annual Delivery Plan between Buyer and Seller (“Seller ADP”) is intended to be developed in terms of agreeing Delivery Months within the Quarter and the Scheduled Arrival Windows for each cargo.</p>	<p>Once the quantity and the quarters awarded are informed to the Successful Bidder/s in the Letter of Award, the month and SAW for each cargo, applicable to the Successful Bidder/s, shall be informed annually as per the ADP process described in clause 6 of the draft Confirmation Memorandum.</p>
7	<p>Please confirm that there will be more than one Scheduled Arrival Window per month within each Quarter.</p>	<p>Currently it is not envisaged to have more than one SAW per month within each quarter.</p>
8	<p>With regard to the Quarters the Bidder includes in its offer, please advise whether the Bidder can stipulate the Delivery Months and Scheduled Arrival Window(s) within each Delivery Month as part of its offer.</p>	<p>Since the Bidders are required to bid for 3 cargoes in a month and two cargoes in a month are not anticipated, delivery months are stipulated automatically. SAW cannot be stipulated as the same will be agreed with PLL as described above.</p>
9	<p>We would like clarity on how long Torrent would take to nominate the SAW for each LNG cargo. As it stands, the SAW shall be notified by the Buyer to the Seller “as soon as possible” after the same is notified by Petronet LNG Ltd. to the Buyer, and would be binding on the Seller. Seller does not have visibility on what the SAW could be and its automatically binding on the Seller (so the Seller cannot change it). We would like to have a deadline for Buyer to nominate the SAW and further changes would be subject to mutual agreement.</p>	<p>TPL works with PLL to get the Terminal ADP agreed in the last quarter of the preceding CY, earlier than the timelines mentioned, and shall notify to the Seller as soon as possible after the same is notified by Petronet LNG Ltd.</p>
10	<p>ADP:</p> <ul style="list-style-type: none"> • 30 days for the 1-day window in very restrictive, in particular for the January cargo. • 1-day window for all cargoes for the year will be fixed before the start of the year. Hence, the ADP is only a scheduling of the volume and vessel. We suggest to introduce a reasonable endeavor clause for Buyer to amend the date if Seller proposes a different date and they go check with Petronet if they can match the date. 	<p>SAWs shall be determined for the entire year in consultation with the terminal and shall be informed in accordance with clause 6 of the draft Confirmation Memorandum and will be followed up with the 90 day schedule as per clause 7 of the draft Confirmation Memorandum.</p>
Seller's Facilities and Loading Port		
1	<p>Seller’s facilities / Loading port: substitution of vessel limited to 15 days prior to discharge. Can this be less, if vessel is already cleared and volume within range?</p>	<p>The ship and its compatibility with the receiving unloading port will have to be ascertained for each call.</p>

Sr. No.	Query	Clarification by TPL
Buyer's Facilities and Unloading Port		
1	Please remove the language “in case Seller is making a delivery for the first time at such facilities or port” as the ship-shore compatibility should be considered on each and every call of a vessel at the unloading port.	If so desired, the alternative language may be included in your Indicative Price Offer Letter at appropriate place in para B(3). You are requested to refer to para 15 of the ITO-II/17 document on evaluation criteria.
2	Option to nominate an alternative Unloading Port: The diversion to the alternative port should also be subject to (1) subject to Seller delivery restrictions such as monsoon season/weather restrictions (2) no changes to the EUQ and SAW; (3) alternate Buyer’s Facilities not under FM .	
3	Could you better specify what does the concept of “alternative unloading port in West Coast in India” includes?	Current operational unloading ports in West Coast India includes Dahej, Hazira and Dabhol. It may also include any unloading port which would be operational during the term of the contract in West Coast India. There are a couple of more unloading ports coming up in the state of Gujarat, West India.
4	Buyer's Facilities / Unloading Port - Ports in West coast India- If there are new ports (for eg. Mundra), This will require Seller's Vetting and Marine assurance and acceptance	The new port on West India (eg. Mundra) will require the Seller's vetting and Marine assurance and acceptance. However, there would be no extra cost associated to such vetting of other port to the Buyer.
Ship-shore compatibility		
1	Further, please clarify that any ship-shore compatibility studies required in respect of an alternative Unloading Port shall be (i) subject to Seller’s approval and (ii) for Buyer’s account.	In our understanding, in respect of DES deliveries the cost ship-shore compatibility studies, if any, is on seller's account.
2	Is the Seller restricted to substitution ships that have already been SSC cleared in the past at Dahej or is Seller allowed to substitute subject to SSC clearance?	Compatibility with the unloading port will have to be ascertained for each call and the same will have to be as per the requirements specified by the unloading port and alternative unloading port.
3	Seller can warrant that LNG Ship will be compatible at Petronet LNG Ltd.’s Dahej LNG Terminal, Gujarat, India but not with any alternate Loading port and alternate Buyer facility.	
Buyer's Force Majeure		
1	By adding pipelines and power plants to Buyer’s FM, does it mean a shutdown or maintenance of such facilities will on its own become an FM event, or would it be necessary that such shutdown/maintenance prevents the Buyer from performing its obligation to receive LNG (e.g. storage tank tops or unavailability of regas capacity).	By including the Pipelines and Power Plants to Buyer's FM, we would like to cover any FM event as defined in the MSPA impacting these assets which would prevent the Buyer to perform its obligations.
2	For the purposes of Buyer’s Force Majeure, Buyer’s Facilities shall include Pipelines and Power Plants as indicated in clause 17 of the draft Confirmation Memorandum as per Annex 2 of this document. Please let us know your position on that.	For the purposes of Buyer's Force Majeure, Buyer's Facilities should include the Pipelines and Power Plants.

Sr. No.	Query	Clarification by TPL
Co-buyer		
1	Can TPL consider to increase Co-Buyer nomination deadline to 60 days as 30 days might be too short to perform KYC clearance, Credit Support organization and MSPA (if necessary)?	It is currently expected that the co-buyer shall be one of the standard / regular importers of LNG in India and already having required MSPA with the Bidders. Hence, the contractual period for informing the Seller at 30 days should be sufficient.
2	Would it be possible to provide us with a potential list of co-purchasers?	There is no list of potential co-buyers. It is expected that the co-buyer shall be one of the standard / regular importers of LNG in India.
3	Should, in good faith, KYC not be cleared or credit not be organized in time by the Co-Buyer, will TPL still be responsible to purchase the full amount originally agreed?	Subject to the Seller exploring all the potential options, taking up promptly and in good faith, TPL shall be responsible for the purchase of the cargo as agreed if Seller is not able to execute the MSPA / KYC documents etc for the co-buyer.
4	The provision of Co-Buyer needs to be discussed and shall be subject to mutual agreement.	
5	Is deal between Seller and Co- Buyer will be on Sellers sole discretion (Credit Support and KYC requirements) not to be unreasonably withheld or Torrent can nominate Co- Buyer and Seller need to abide by that ?	It is expected that the co-buyer shall be one of the standard / regular importers of LNG in India and already having required MSPA with the Bidders. Please also refer clause 20 of the draft Confirmation Memorandum - Buyer and Seller shall work together promptly and in good faith to complete the formalities required for induction of the co-buyer.
6	With regard to the addition of a co-buyer, could Torrent provide any guidance as to the nature of a potential co-buyer(s) – is it envisaged that there will only be a single co-buyer or multiple co-buyers?	It is currently envisaged to have a single co-buyer.
7	If a Co-Buyer partners with Torrent for LNG supply, what would Torrent’s preferred contractual structure (eg. A single CN with all co-buyers & a % split on single cargoes, or separate CNs on the same terms)?	Separate Confirmation Memorandum on the same terms.
8	Is Torrent contemplating that (i) it will split an LNG cargo with a co-buyer or (ii) a co-buyer will purchase the entirety of the LNG cargo or (iii) a combination of both (i) and (ii)? With respect to split cargoes, will Torrent send and receive operational notices on behalf of both buyers? Will Torrent determine, on behalf of both buyers, how potential off-specification LNG will be handled?	The sharing could be a combination of both. The co-buyer will be a separate distinct entity that will be vetted by the Seller and entering into an agreement with the Seller. The documentation including Bill of Lading for such purchases with a co-buyer shall be in individual names and the arrangements for credit support etc. shall be separate. Please refer to clause 20 of the draft Confirmation Memorandum.
Other terms and conditions		
1	We note that Torrent is seeking Brent linked (rather than Fixed priced) cargoes – would Torrent have any interest in the Bidder providing a hedging service to fix the price of Brent?	The need for such services, if any, shall be discussed with the Shortlisted Bidder/s at the appropriate time.

Sr. No.	Query	Clarification by TPL
2	Are there flexibility elements (price or volumes flexibilities) which may be of particular interest to Torrent, that could potentially help us structure a more suitable and interesting offer for Torrent?	You are requested to please adhere to the requirements as mentioned in the ITO-II/17.
3	Do you have any preference to have some volume flexibility, such as cancel option and call option? If bidder include such options in the proposal, will such offer have weightage in evaluation?	
4	Request clarification if multiple offers can be made by a single seller for different terms and combinations there-off?	
5	In case we require any change on terms & conditions in the ITO (although we understand you prefer offers to be aligned with ITO), shall we add such change in the Indicative Price Offer Letter?	If so desired, the deviation in terms and conditions may be included in your Indicative Price Offer Letter at appropriate place in para B(3). You are requested to refer to para 15 of the ITO -II/17 document on evaluation criteria.
6	Transfer of title will happen in international waters or upon ex-ship delivery of the LNG?	Transfer of Title will happen in international waters.
7	Terms of delivery: We recommend to not have any reference to incoterms and therefore to delete the reference to Incoterm 2000. Incoterm 2000 has been replaced with Incoterm 2010 and DES has effectively been replaced by DAP.	DES is defined in Incoterms 2000 and not thereafter. Hence specific reference to Incoterms 2000 has been provided.
8	Tax - We note that Indian Service Tax on import freight will be imposed on and borne by Buyer as the importer of record. We propose this is clarified in the CN / clarified with respect to the MSA.	In our understanding, the current status is that such service tax is now imposed on the importer of goods. However, since this is a tax matter, you are advised not rely on our understanding and take an independent expert opinion from a tax counsel.
9	<p>Termination - We note that the provisions with respect to termination in the MSA contemplate that a party may terminate a Transaction affected by FM if the Parties are unable to re-schedule the delivery within 5 Days after the end of the Arrival Period.</p> <p>Whilst this may be appropriate for a spot cargo, we believe that for a transaction of up to 36 cargoes it is in the interest of both parties to consider a regime of suspension and termination that does not automatically impact all remaining cargoes under the agreement.</p>	Indeed isolated transaction/s affected by FM shall not lead to automatic termination of all the balance cargos. The cargos affected during the FM shall be the ones that shall be suspended.
10	<p>Amendments to the terms of ITO - Paragraph 16.1 of the Invitation to Offer provides that Torrent has the right at any time and from time to time to modify the terms of the Invitation to Offer or to extend the timeframes.</p> <p>Please confirm that Torrent will notify all participants of any such modifications in writing and within a reasonable timeframe prior to the bid submission deadline in order for the participants to be afforded sufficient time to consider those amendments.</p>	If any changes are made to the ITO-II/17 document, the same shall be intimated to the Bidders before submission of the bids.

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