

Offshore Electricity Transmission: Updated Proposals for the Competitive Tender Process

Document type: Annex

Ref: 21/09d

Annex 2 – Draft Template Qualification to Tender Document

Date of publication: 5 March 2009

Deadline for response: 16 April 2009 (2 April for Tender Regulations)

Target audience: All with an interest in renewable energy and offshore electricity transmission.

Overview:

We are working together with the Government to introduce a new regulatory regime for offshore electricity transmission. A key part of the proposals for this regime is that offshore electricity transmission licences would be granted on the basis of a competitive tender process. The Government has decided that Ofgem should manage this process.

This document updates our proposals for managing this competitive tender process. We are also consulting for the final time on the draft regulations that would provide the legislative framework to enable this process.

This annex contains our draft template Qualification to Tender document for the transitional regime.

Contact name and details: Richard Clay, Senior Manager, Offshore Transmission

Email: offshoretransmission@ofgem.gov.uk

Team: Offshore Electricity Transmission

The Office of Gas and Electricity Markets

Offshore Electricity Transmission

Qualification to Tender Document

2009 Transitional Tenders

Version 1.1

IMPORTANT NOTICE

The Qualification to Tender Document is issued by the Office of Gas and Electricity Markets ("Ofgem") pursuant to the Gas and Electricity Authority's powers under [section 6C] of the Electricity Act 1989, as amended, and section [] of the [insert tender regulations title].

The Qualification to Tender Document has been prepared and issued to Applicants for their sole use and for the sole purpose of assisting them to make a written Qualification to Tender Submission in accordance with Ofgem's requirements and is not intended to provide the basis of any investment decision. This Qualification to Tender Document is not intended to be considered as an investment recommendation by Ofgem or by any of its advisers. Each person to whom this Qualification to Tender Document is made available must make his own independent assessment of the Project(s) after making such investigation and taking such professional advice as they deem necessary.

The copyright in this Qualification to Tender Document and information contained within it is vested in Ofgem and may not be reproduced, copied or stored in any medium without the prior written consent of Ofgem, other than for the purpose of making a Qualification to Tender Submission or carrying out the Project.

Any Applicant who, in connection with a particular Project:

- (i) Offers or agrees to pay or give or does pay or give any sum of money, inducement or valuable consideration directly or indirectly to any officer of Ofgem, the GBSO, the Developer or any of their Related Parties for doing or having done or causing or having caused to be done any act or omission;
- (ii) Does anything which would constitute a breach of the Prevention of Corruption Acts 1889 to 1916;
- (iii) Canvasses Ofgem, the GBSO, the Developer or any of their Related Parties in connection with the Project; or
- (iv) Contacts any officer of Ofgem, the GBSO or the Developer prior to the selection of Bidders for the Project about any aspect of the Project in a manner not permitted by the Qualification to Tender Document (including without limitation a contact for the purposes of discussing the possible transfer of such officer to the employment of the Applicant for the purpose of the Project),

will be disqualified (without prejudice to any other remedies available to Ofgem and without prejudice to any criminal liability which such conduct by an Applicant may attract).

Applicants shall not undertake (or permit to be undertaken) at any time, whether at this stage, during the ITT Stage or after the award of any Offshore Transmission Licence, any publicity activity with any section of the media in relation to any of the Projects other than with the prior written agreement of Ofgem. Such agreement shall extend to the content of any publicity. In this paragraph the word 'media' includes (without limitation) radio, television, newspapers, trade and specialist press, the internet and e-mail accessible by the public at large and the representatives of such media.

Where an Applicant intends to use sub-contractors it will be the responsibility of the Applicant to provide the sub-contractors with all necessary information, including (without limitation) in relation to the Qualification to Tender Rules set out in this Qualification to Tender Document.

Ofgem reserves the right to vary any element of the Tender Process, issue supplementary documentation or make additional arrangements at any time during the Tender Process to clarify any issue or amend any aspect of the Tender Process. All such supplementary documentation issued by Ofgem during the Tender Process will be deemed to form part of the Qualification to Tender Document to the extent indicated in the amendment. Ofgem may, at its absolute discretion, extend the Tender Process and postpone any submission date in the event of any such amendment.

Ofgem is not bound to accept any Bid ultimately made by Applicants.

It is the responsibility of each Applicant to ensure that they have all of the information they need to prepare their Qualification to Tender Submission. While information provided by Ofgem and/or its Related Parties has been prepared in good faith, it does not purport to be comprehensive or to have been independently verified. Neither Ofgem nor any of its Related Parties makes any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the information provided. All such persons or entities expressly disclaim any and all liability (other than in respect of fraudulent misrepresentation) based on or relating to any such information or representations or warranties (express or implied) contained in, or errors or omissions from, the information or based on or relating to its use by the Applicant and/or any other third party.

Nothing in the Qualification to Tender Document is intended to, or shall be deemed to establish any partnership or joint venture between Ofgem and any Applicant.

Each Applicant will bear its own costs of participating in the Tender Process. Ofgem is under no obligation and does not agree to any liability to reimburse any Applicant, including without limitation any unsuccessful Applicant, for any costs, expenses, damages or losses incurred in connection with the Tender Process.

By accepting and participating in the Tender Process set out in the Qualification to Tender Document each Applicant agrees to be bound by the rules and requirements set out in the Qualification to Tender Document.

Ofgem requires all actual or potential conflicts of interest (including in particular those arising where a consortium member or adviser put forward by one Applicant is the same firm or company or is a member of the same group of companies as that put forward as a consortium member by another Applicant or is working or has worked for Ofgem on any of the Projects) to be resolved to Ofgem's satisfaction prior to the delivery of the Applicants' Qualification to Tender Submission in response to the Qualification to Tender Document. Failure to declare such conflicts and/or failure to address such conflicts to the reasonable satisfaction of Ofgem could result in an Applicant being disqualified.

The Qualification to Tender Document does not constitute an invitation to tender ("ITT"). In due course, Ofgem expects to issue ITT Documentation for each Project. The Qualification to Tender Document is designed to assist Applicants in deciding whether it wishes to prequalify for the ITT Stage of any the Projects. ITT Documentation for a particular Project will be issued to those Applicants which successfully qualify for the ITT Stage of that Project on the basis of the process set out in the Qualification to Tender Document.

Legal, technical and financial advisers are acting for Ofgem in relation to the Tender Process and will not regard any other person as their clients or be responsible to anyone other than Ofgem for providing the protections afforded to their clients or for advising any other person on the Tender Process or any matter related to it.

CONTENTS

[To add]

DRAFT

1. INTRODUCTION TO THE PROJECT AND TENDER PROCESS

1.1 Framework

[Note: It is intended that this section will set out a high level short summary of the regulatory framework for offshore electricity transmission.]

- 1.1.1 Primary Legislation
- 1.1.2 Secondary Legislation (e.g. the Tender Regulations)
- 1.1.3 Licences
- 1.1.4 Industry Codes and Technical Standards

1.2 Roles

[Note: It is intended that this section will set out a summary of the roles which the key parties will have in the Tender Process.]

- 1.2.1 Ofgem
- 1.2.2 GBSO
- 1.2.3 Developer

1.3 Overview of Project

[Note: Once the Applicant has entered into a confidentiality agreement in respect of a Project, to the satisfaction of Ofgem, an information memorandum in respect of that Project will be made available to it. The information memorandum for a Project will contain a detailed overview of that Project. This section will set out the process through which the Applicant will be given access to the relevant information memorandum.]

1.4 Overview of Tender Process

1.4.1 Prequalification Stage

Each Applicant must submit its Prequalification Submission, including its response to the PQ, in accordance with the instructions set out in this Prequalification Document. Each Applicant is requested to indicate in its Prequalification Submission the Projects for which it wishes to bid. Ofgem will evaluate all complete and compliant Prequalification Submissions as described in paragraph 2.3 against a set of defined minimum thresholds. Successful Applicants will be those whose Prequalification Submission meets all the defined minimum thresholds. Ofgem will notify the Applicants of all those who have successfully prequalified to enter the Qualification to Tender Stage by publishing a long list of those Applicants who have met the necessary minimum thresholds.

1.4.2 Qualification to Tender Stage

All Applicants who meet the necessary minimum thresholds at the Prequalification Stage will be invited to enter the Qualification to Tender Stage.

On entering a confidentiality agreement [in respect of each Project it wishes to qualify for] to the satisfaction of Ofgem, the Applicants in the Qualification to Tender Stage will be given access to an information memorandum in respect of each such Project. The information memorandum for a Project will contain a detailed overview of that Project. Each Applicant must submit its Qualification to Tender Submission, including its response to the QTT Questionnaire, in respect of each Project it wishes to qualify for and in accordance with the instructions set out in the Qualification to Tender Document. Ofgem will evaluate all complete and compliant Qualification to Tender Submissions separately in respect of each Project and on the basis of a defined scoring methodology, as further described in the Qualification to Tender Document. The Applicants for a Project will be ranked in accordance with their scores, and Ofgem will invite the highest scoring Applicants to bid at the ITT Stage of that Project. [Ofgem intends to invite up to a maximum of 5 Bidders to bid at the ITT Stage of a Project.] Each Applicant will be informed of the outcome of Ofgem's evaluation and will be offered feedback on its Qualification to Tender Submission(s).

1.4.3 ITT and Responses

All prequalified Applicants (the "Bidders") for a Project will be invited to tender for that Project. The ITT Documentation setting out the Project requirements and ITT Rules for the Tender Process will be distributed to all Bidders who will be invited to submit their Compliant Bids for the Project by [date]. Ofgem will evaluate all complete Compliant Bids submitted and intends to select a Preferred Bidder following its evaluation. Each Bidder will be informed of the outcome of Ofgem's evaluation, and will be offered feedback on its Bid.

1.4.4 Optional BAFO

If Ofgem shortlists a number of Bidders as potential Preferred Bidders following the evaluation of the Bids, Ofgem may invite those shortlisted to further refine their Bids in a BAFO stage. This is an optional stage in the Tender Process and will only be included where Ofgem considers it would be helpful and/or beneficial to do so.

1.4.5 Preferred Bidder

Once a Preferred Bidder is selected there will be a short period of time during which the Preferred Bidder must demonstrate to Ofgem that it has the following arrangements in place:

- (A) Funding arrangements;
- (B) Legal consortium formation (if applicable), including constitution and shareholding arrangements;
- (C) Internal board and other approvals necessary;
- (D) Key subcontracting arrangements; and
- (E) Necessary land arrangements- both offshore and onshore.

These requirements will need to be demonstrated and any outstanding issues resolved to the satisfaction of the Authority before the award of the Offshore Transmission Licence can be made.

1.4.6 Financial Close/Licence Award

Once the Preferred Bidder has satisfied each of its requirements to the satisfaction of the Authority, financial close will be arranged.

[Note: This paragraph will summarise the process and key actions at this stage of the Tender Process. How financial close will in practice happen may depend on the type of funding involved.]

1.4.7 Responsibility for Meeting Costs of Tender Process

Each Applicant and Bidder is responsible for its own costs of developing and submitting its Prequalification Submission, its Qualification to Tender Submission(s), and if selected as a Bidder, its Bid(s). Each Applicant and Bidder is also required to make prescribed non-refundable payments to Ofgem at the Prequalification Stage and ITT Stage respectively. For the avoidance of doubt, a Bidder will be required to make payments to Ofgem in respect of each Tender Process it participates in. The successful Bidder will also be required to make a non-refundable payment to Ofgem on the award of an Offshore Transmission Licence.

The payments that will be required to be paid are as follows: *(indicative only at this stage)*

- Each Applicant will be required to pay Ofgem £5,000 at the Prequalification Stage;
- Each Bidder will be required to pay Ofgem £35,000 at the ITT Stage for each Project for which it wishes to submit a bid;
- Each preferred bidder will be required to pay Ofgem £150,000 when appointed;
- Each successful Bidder will be required to pay Ofgem £250,000 on the award of an Offshore Transmission Licence.

1.4.8 Timetable

Ofgem intends to follow the indicative timetable set out below:

[insert timetable]

2. INSTRUCTIONS TO APPLICANTS

2.1 Preliminary Requirements

2.1.1 Consortium Changes after the Prequalification Stage

As stated in the Prequalification Document, it is anticipated that single organisations and consortia may make Prequalification Submissions and Qualification to Tender Submissions. If an Applicant wishes to adjust its consortium configuration and/or membership, or where it prequalified as a single entity and wishes to form a consortium, it may do so prior to completing the Qualification to Tender Submission. In all such cases, the Applicant is required to re-submit answers to certain questions taken from the PQ and which are included in, and clearly identified, in the QTT Questionnaire. This is to enable Ofgem to re-assess that the Applicant still satisfies the defined minimum thresholds required at the Prequalification Stage. Where a special purpose vehicle is proposed, Ofgem does not require the consortium to form that vehicle at this stage, although it will need to do so prior to the award of the Offshore Transmission Licence.

2.1.2 QTT Questionnaire

- (A) The QTT Questionnaire has been produced to enable Ofgem to evaluate the financial, legal and operational proposals in relation to a Project for which the Applicant wishes to prequalify and to reassess the Applicant's financial strength in relation to the value of the Projects it has nominated.
- (B) Ofgem anticipates that it may receive Qualification to Tender Submissions both from single entities and from groups of entities which have joined together in consortium.
- (C) Questions in the QTT Questionnaire which are required to be completed by the Applicant should be answered by, in the case of an Applicant which is a single entity, that entity, and in the case of an Applicant which is a consortium, the lead member of that consortium.
- (D) Certain questions in the QTT Questionnaire are identified as only being relevant to Applicants who have adjusted their consortium configuration, and/or membership since the Prequalification Submission (as described in paragraph 2.1.1), or who are applying to prequalify for different Projects from those in which they expressed interest in bidding in their Prequalification Submission.
- (E) In respect of a Qualification to Tender Submission by a consortium, the lead member of the consortium must ensure that information provided in respect of a particular consortium member is clearly identified as relating to that consortium member.
- (F) Ofgem recognises that in the case of a consortium not every consortium member will, for example, be able to provide examples of experience requested. Ofgem's evaluation will look at the capabilities of the consortium taken as a whole.

- (G) For the avoidance of doubt, the Applicant is required to complete a separate QTT Questionnaire in respect of each Project for which it wishes to qualify to bid at the ITT Stage.
- (H) The QTT Questionnaire should be completed in English.

2.1.3 Clarification

Applicants may make requests to Ofgem for clarification on any aspect of the Qualification to Tender Document. Any and all such requests must be submitted by Applicants to the Offshore Transmission Tender Co-ordinator via the Enquiry Form, which will be available on the Offshore Transmission electronic tendering portal [www.ofgem.bravosolution.co.uk], no later than [date]. Applicants should not contact any other member of staff, representative or adviser of Ofgem without prior written approval from the Associate Director Offshore Transmission or the Head of Tenders and Transactions Offshore Transmission. Requests for such contact should be submitted to the Offshore Transmission Tender Co-ordinator via the Enquiry Form referred to in Appendix E.

2.2 Qualification to Tender Submission

2.2.1 Deadline and Address for Qualification to Tender Submission

The Qualification to Tender submission will be made securely via the Offshore Transmission electronic tendering portal. The Qualification to Tender submission must be fully submitted via the portal no later than [time] on [date].

In addition [two] CD-ROM electronic copies of each Qualification to Tender submission must be packaged [*insert packing details*] and sent by [*courier*] to be delivered to the following address no later than [time] on [date]:

Offshore Transmission Tender Co-ordinator
Ofgem - London
9 Millbank, London,
SW1P 3GE

To be deemed compliant with the submission deadline the Applicants must submit their Qualification to Tender submission via both the electronic tendering portal and separately in CD-ROM version in accordance with this paragraph. Failure to submit Qualification to Tender submission in accordance with these requirements will result in exclusion from the tender.

Ofgem reserves the right to request the submission by Applicants of any or all parts of their Qualification to Tender submission in hard copy format, provided Ofgem make this request no later than 4 weeks prior to the Qualification to Tender submission deadline.

2.2.2 Detailed Instructions on Form and Contents of Qualification to Tender Submission

Electronic submission of Qualification to Tender Submission via the Electronic Tendering Portal will be in [PDF/Microsoft Word] format, except where explicitly requested in specific formats.

[Note: the detailed requirements and submission instructions for the Electronic Tendering Portal will be included here once the details are finalised and confirmed by Ofgem, as well as being available via the portal itself.

The electronic copies of Qualification to Tender Submission in CD-ROM format should be provided on a single CD-ROM holding files in [PDF][Microsoft Word] format. Each CD-ROM is to be contained in a hard case package. Both the CD-ROM and the casing are to be clearly labelled with the following:

- (A) Name of the Project
- (B) Name of the Applicant
- (C) The legal address of the Applicant
- (D) Date of Submission

Both electronic copies of Qualification to Tender Submissions should be in English and contain the following:

- (A) A completed QTT Questionnaire in the form set out at Appendix B to this Qualification to Tender Document; and
- (B) A completed Applicant's Checklist in the form set out at Appendix C to this Qualification to Tender Document.

[Note: Any materials required to be included in the Prequalification Submission will be specified here.]

No other documents or information should be submitted with the completed Qualification to Tender Submission.

2.2.3 Process for Amending Qualification to Tender Submission

Ofgem will rely on the information provided by Applicants in their Qualification to Tender Submissions (including but not limited to information concerning the members and structure of their consortia where relevant). If, at any time after the submission of the Qualification to Tender Submission, there are any material or proposed changes to the information provided by the Applicant, the Applicant must advise Ofgem as soon as is reasonably practicable. For the avoidance of doubt, where an Applicant informs Ofgem of any such material or proposed change, Ofgem shall be entitled to evaluate or re-evaluate that Applicant's Qualification to Tender Submission in light of that material or proposed change, and determine whether to proceed with that Applicant's Qualification to Tender Submission, or whether to exclude that Applicant from the Tender Process as a result of the change. Where the Applicant fails to inform Ofgem of any change to the information provided by the Applicant, Ofgem reserves the right to re-evaluate that Applicant's Qualification to Tender Submission and/or to exclude that Applicant from the Tender Process.

2.3 Qualification to Tender Evaluation

2.3.1 Ofgem's Right to Seek Clarification/Further Information from Applicants

Following receipt of the Qualification to Tender Submissions, Ofgem will undertake a completeness check. If Ofgem identifies any omissions from the information required to be provided by an Applicant it will notify the relevant Applicant and give that Applicant 48 hours to rectify the omission. Ofgem may also invite Applicants to clarify their Qualification to Tender Submission at anytime.

2.3.2 Evaluation Process

(A) Identification of Compliant Submissions

A Qualification to Tender Submission will only be deemed a Compliant Submission if it includes all of the materials and fulfils all of the requirements set out in the Applicants' Checklist at Appendix C.

(B) Re-assessment of Financial Robustness

Where an Applicant has adjusted its consortium configuration and/or membership since submitting the Prequalification Submission, and/or is applying to prequalify for different Projects from those in which it expressed interest in bidding in its Prequalification Submission, Ofgem will re-assess the Applicant's financial robustness against the minimum thresholds set out in the Prequalification Document. This will include a re-assessment of the Applicant's net asset worth or ability to raise finance with regard to the Projects now nominated by the Applicant.

(C) Pass/Fail Test based on Level of Revenue

Ofgem intends to apply a pass/fail test based on the turnover of the Applicant to further test the Applicant's financial robustness to fund the Projects it has nominated.

[Note: Further explanation of this revenue test proposal is set out in Appendix 8 of the consultation document.]

(D) Evaluation Criteria

Once the Applicant has successfully demonstrated that it meets the requirements of 2.3.2(A), (B) and (C) above, Ofgem will evaluate and score the Applicant's Qualification to Tender Submissions, on a per Project basis, against the following criteria:

Financial Criteria

[Note: It is proposed that the scoring will be weighted such that the assessment of financial criteria will amount to 60% of the Applicant's overall score. This is set out in further detail in Appendix 8 of the consultation document.]

- (1) Deliverability of funding package proposed, including assessment of the Applicant's funding proposal and ability to raise the finance as proposed;
- (2) Proposed IRR for the Project, including assessment of the Applicant's proposed post tax real cash flow return for the Project;
- (3) Approach to identifying and managing risk, including assessment of the Applicant's proposed approach to managing key risks in the Project that may have a material financial impact and the Applicant's ability to do so;
- (4) Extent of parent company guarantees and proposed contracting structure, including assessment of the Applicant's sub-contracting structure, and where the Applicant is a consortium, the proposed organisation structure, shareholding arrangement and liability limits;

Non-Financial Criteria

[Note: It is proposed that the scoring will be weighted, such that the assessment of the non-financial criteria will amount to 40% of the total score for the Applicant. A further explanation of this is set out in Appendix 8 of the consultation document.]

- (5) Legal, including assessment of the Applicant's proposals to ensure compliance with the applicable legislation, industry codes and the Offshore Transmission Licence, and the Applicant's proposed approach to the terms of asset transfer;
- (6) Managerial, including assessment of the Applicant's proposals to manage and deliver the transmission services, managing key interfaces with third parties and the Applicant's proposed take over plan; and
- (7) Operational, including assessment of the Applicant's proposals to manage the technical and operational relationships within the regulated industry structure, to ensure it can provide sufficient capacity to undertake the operational obligations for the Project and the Applicant's approach to resourcing and supporting the technical deliverables.

[Note: A full explanation of the selection process, evaluation criteria and proposed scoring methodology for the Qualification to Tender Stage is set out in Appendix 8 of the consultation document.]

2.3.3 Short listing of Applicants to Receive ITT Documentation

- (A) The objective of the evaluation process is to assess the Qualification to Tender Submissions in order to identify the most suitable Applicants to proceed to the ITT Stage in respect of each Project.

- (B) Qualification to Tender Submissions will be checked against the criteria for Compliant Submissions. Qualification to Tender Submissions which satisfy the criteria for Compliant Submissions will proceed to the next evaluation stage as described in paragraph 2.3.3(C) below. Subject to paragraph 2.3.1 above, an Applicant whose Qualification to Tender Submission does not satisfy the criteria for Compliant Submissions will have its Qualification to Tender Submission rejected and such Qualification to Tender Submission will not be considered at the next evaluation stage.
- (C) Compliant Submissions will then be evaluated by Ofgem as set out in paragraphs 2.3.2(B), (C) and (D), in order to select which Applicants will be invited to take part in the ITT Stage of the Tender Process.
- (D) Ofgem is sensitive to the likely level of investment which Applicants will have to undertake during the Tender Process and considers that it would not be beneficial, either for Ofgem or Applicants, to take too many Applicants beyond the Qualification to Tender Stage. Therefore, Ofgem reserves the right to limit the number of Applicants who will be invited to take part in the ITT Stage of any Project.

2.4 **Exclusion/Unsuccessful Applicants**

2.4.1 Circumstances for Excluding Applicants from Tender Process

Ofgem reserves the right:

- (A) To reject any Qualification to Tender Submission that, in Ofgem's opinion, fails to comply with the requirements for Qualification to Tender Submissions set out in the Qualification to Tender Document; and/or
- (B) To exclude any Applicant that fails to comply with the Qualification to Tender Rules,

But Ofgem shall not be obliged to reject any such Qualification to Tender Submissions or exclude any such Applicants in such circumstances.

2.4.2 Consequences of Exclusion/an Unsuccessful Applicant

In the event that an Applicant is excluded from the Tender Process, or a Qualification to Tender Submission is unsuccessful, the relevant Applicant will not be invited to the ITT Stage of the relevant Project.

2.5 **Confidentiality and the Freedom of Information Act 2000**

2.5.1 Potential Application of the FOIA to Information Provided by Applicants

- (A) The FOIA provides a general right of access to all information held by public authorities. Ofgem is subject to the FOIA.
- (B) Applicants are invited to identify which parts, if any, of the Qualification to Tender Submission are provided to Ofgem in confidence and provide reasons why they consider the information is eligible for exemption under the FOIA and should be kept confidential.

- (C) Although Ofgem is not under any obligation to consult with an Applicant in relation to requests for information made under the FOIA, Ofgem will endeavour to inform the relevant Applicant of requests wherever it is reasonably practicable to do so. However, all decisions about disclosure of information will be made at the sole discretion of Ofgem regardless of whether or not an Applicant has identified any information as being in its opinion, eligible for exemption.
- (D) For further information and guidance, Applicants' attention is drawn to the Lord Chancellor's Code of Practice issued under section 45 of the FOIA (see <http://www.dca.gov.uk/foi/codesprac.htm>).

DRAFT

APPENDIX A: GLOSSARY

"**Applicant**" means an entity that submits a Prequalification submission and a Qualification to Tender Submission;

"**Applicant's Checklist**" the checklist for Applicants at Appendix C to the Qualification to Tender Document;

"**Authority**" means the Gas and Electricity Markets Authority;

"**BAFO**" means the best and final offer that may be requested by Ofgem from some or all of the Bidders;

"**Bid**" means each bid submitted to Ofgem in response to the ITT Documentation;

"**Bidder(s)**" means an entity invited to submit a Bid to Ofgem in response to the ITT Documentation, or in the case of a Bid which is accepted and in pursuance of which an Offshore Transmission Licence is granted, the Offshore Transmission Licensee;

"**Compliant Bid**" means a Bid that fulfils the criteria set out in the ITT Documentation;

"**Compliant Submission(s)**" means a Qualification to Tender Submission that includes all of the materials and fulfils all of the requirements set out in the Applicants' Checklist at Appendix C;

"**Electricity Act**" means the Electricity Act 1989 as amended from time to time;

"**Developer**" means the person falling within sub-sections 6D(2)(a) and (4) of the Electricity Act who intends to develop an offshore generating station which has triggered the commencement of a Tender Process;

"**FOIA**" means the Freedom of Information Act 2000;

"**GBSO**" means National Grid Electricity Transmission plc, which acts as the system operator for the GB Transmission System pursuant to the terms of its Transmission Licence;

"**GB Transmission System**" means the system consisting (wholly or mainly) of high voltage electric lines owned or operated by Transmission Licensees and used for the transmission of electricity from one generating station to a sub-station or to another generating station or between sub-stations or to or from any inter-connector and includes any electrical plant or meters owned or operated by any Transmission Licensee in connection with the transmission of electricity;

"**Government**" means Her Majesty's Government in the United Kingdom;

"**ITT Documentation**" means, in respect of a particular Project, the document, including all appendices, annexes, schedules and other documents related thereto which will be delivered to each Bidder invited to Bid for that Project;

"**ITT Rules**" means the rules that each Bidder must comply with during the Tender Process from the ITT Stage onwards as detailed in the ITT Documentation;

"**ITT Stage**" means the period starting from the distribution of the ITT Documentation to Bidders by Ofgem, and including Bid preparation, submission and evaluation, and ending when either a Preferred Bidder is selected or BAFO documentation is distributed;

"Licence Award" means the grant of the Offshore Transmission Licence by Ofgem to the successful Bidder;

"Offshore Transmission Licence" means a licence granted pursuant to section 6(1)(b) of the Electricity Act in relation to the transmission of electricity offshore, where offshore means:

- (a) waters in or adjacent to Great Britain which are between the mean low water mark and the seaward limits of the territorial sea;
- (b) waters within an area designated under section 1(7) of the Continental Shelf Act 1964 and/or section 84(4) of the Energy Act 2004

and includes the Renewable Energy Zone and **"Offshore Transmission Licensee"** means the holder of an Offshore Transmission Licence "

"Ofgem" means the Office of Gas and Electricity Markets Authority;

"OFTO" means the owner of an offshore transmission system and the holder of a related Offshore Transmission Licence;

"PQ" means the prequalification questionnaire required to be completed and included with each Prequalification Submission;

"Preferred Bidder" means the Bidder determined by Ofgem, in its sole discretion and following its evaluation of the Bids received (including any BAFO submissions requested), as the Bidder it intends to award the Offshore Transmission Licence to in relation to the Tender Process;

"Prequalification Document" means this document prepared and issued by Ofgem pursuant to the Authority's powers under section [6C] of the [Electricity Act], and section [] of the [*insert tender regulations title*] for the purposes of prequalifying Applicants to the ITT Stage of the Projects;

"Prequalification Rules" means the rules that each Applicant must comply with during the Prequalification Stage of the Tender Process as detailed in the Prequalification Document;

"Prequalification Stage" means the period of a Tender Process starting from the publication of the Prequalification Document, including the preparation, submission and evaluation of Prequalification Submissions and ending once Ofgem has published the long list of Applicants that prequalify to the Qualification to Tender Stage;

"Prequalification Submission(s)" means an Applicant's response to the Prequalification Document in the form and in compliance with the Prequalification Rules;

"Project(s)" means the management and operation of the offshore transmission system in respect of any of [*insert names of each Project in tender round*];

"QTT Questionnaire" means the qualification to tender questionnaire to be completed and included with each Qualification to Tender Submission;

"Qualification to Tender Document" means the document prepared and issued by Ofgem pursuant to the Authority's powers under section [6C] of the [Electricity Act], and section [] of the [*insert tender regulations title*] for the purposes of prequalifying Applicants to the ITT Stage of the Projects;

"Qualification to Tender Rules" means the rules that each Applicant must comply with during the Qualification to Tender Stage of the Tender Process as detailed in the Qualification to Tender Document;

"Qualification to Tender Stage" means the period of a Tender Process starting from Ofgem publishing the long list of Applicants who have pre-qualified, including the preparation, submission and evaluation of QTT Submissions and ending once Ofgem has notified the Applicants of its selection of Bidders for the Projects;

"Qualification to Tender Submission" means an Applicant's response to the Qualification to Tender Document in the form and in compliance with the Qualification to Tender Rules;

"RAV" means a regulated asset valuation calculated in accordance with Part 9 Clause 21 of the Tender Regulations;

"Related Party" or **"Related Parties"** means employees, officers, directors, stakeholders and suppliers of the associated party;

"Renewable Energy Zone" means the area designated as such under section 84(4) of the Energy Act 2004;

"Tender Process" means the competitive process run by Ofgem in order to identify a suitable entity to be awarded the Offshore Transmission Licence in relation to a particular Project;

"Tender Regulations" means [];

"Transmission Licence" means a licence issued under section 6(1)(b) of the Electricity Act.

APPENDIX B: QTT QUESTIONNAIRE

**The Office of Gas and Electricity
Markets**

Offshore Electricity Transmission

Qualification to Tender Questionnaire

INTRODUCTION AND INSTRUCTIONS

Ofgem Reference Number – [insert details]

The QTT Questionnaire contains 12 sections.

Bidder Compliance

Section A requests the Applicant to confirm or update the Projects for which it wishes to be invited to tender for.

Section B requests the Applicant to confirm or update the ownership structure for the OFTO specifically identifying any potential conflicts of interest.

Financial Information

Section C requests evidence to update and/or reconfirm demonstration of adequate financial standing.

Section D requests evidence to update and/or reconfirm demonstration of a track record of raising finance.

Section E requests evidence to demonstrate a sufficient level of annual turnover.

Section F requests evidence to demonstrate a suitable approach for financing the OFTO and an understanding of the investment economics.

Section G requests the Applicant to provide details of the consortium structure if applicable.

Non-Financial Information

Section H requests information to update and/or reconfirm proposed compliance with relevant regulations and potential conflict issues.

Section I requests details in relation to proposed compliance with applicable codes and regulatory regimes and proposed approach to the terms of transfer.

Section J requests evidence to demonstrate a suitable management capability for operating the OFTO, demonstrating infrastructure management experience, stakeholder management experience and delivery assurance.

Section K requests evidence to demonstrate a suitable operational capability for operating the OFTO.

Section L requests evidence to demonstrate an understanding of the key Health & Safety and environmental requirements required for OFTO operation.

A. Projects for which the Applicant wishes to be invited to tender for

The Applicant should confirm that the Projects it wishes to be invited to tender for are the same as stated in its Prequalification Submission or else specify which of the following Projects it wishes to be invited to tender for.

[Note: A list of all the Projects in the tender round will be listed here.]

B. General Information

This section requests evidence to demonstrate a suitable ownership structure for the OFTO, demonstrating that there is an efficient and legally robust decision-making process for the management of the proposed organisation, specifically identifying any potential conflicts of interest. In relation to this section, Applicants should, where appropriate, confirm that the information provided in the Applicant's Prequalification Submission is still accurate or, where applicable, provide updated information.

- B1 Name of the Applicant. In the case of an application by a consortium the Applicant is the organisation that will act as the lead consortium member. The names of the other consortium members should also be provided.
- B2 Name and contact details for the principal contact for the Applicant (including name, postal address, telephone, fax and e-mail address). Where the address provided is not an address in Great Britain, provide an address in Great Britain for service of documents.
- B3 State whether the Applicant is a public limited company, private limited company, overseas company, other body corporate, partnership, unincorporated association, sole trader or other entity (and in the last case give particulars of the legal status).
- B4 Where the Applicant is a body corporate, state the jurisdiction in which it is incorporated, its date of incorporation, its registered office and its registered number (or equivalent).
- B5 Where the Applicant is a body corporate, state the full names and home addresses of its current directors (including any shadow directors within the meaning of section 251 of the Companies Act 2006) or, where applicable, the corresponding officers.
- B6 Where the Applicant is a body corporate, state the name and registered office of any immediate and ultimate holding company of the Applicant and its current directors, and the name and registered or principal office of any parent undertaking (within the meaning of section 1162 of the Companies Act 2006).
- B7 Where the Applicant is neither a body corporate nor a sole trader, the name(s) and address(es) of the person or persons in whom effective control of the Applicant rests.
- B8 Where any person (other than a person whose name is given in response to question B5 or question B6) holds 20 per cent or more of any class of shares of an Applicant, the name and address of each such person, specifying in each case the number of shares so held and the percentage of the aggregate number of shares of that class represented thereby.
- B9 Give particulars of any licences under the Electricity Act or Gas Act 1986 held, or applied for (whether or not successfully) or intended to be applied for by the Applicant and, so far as is known to the Applicant by any Related Party.
- B10 Confirm that, and set out how, the organisation structure of the proposed licensee will be compliant with the relevant ring fencing provisions in the Offshore Transmission Licence.
- B11 Provide details of the Applicant's legal, financial, technical, communications or other key professional advisers in relation to the Project.

C. Financial and Economic Information

This section requests evidence to demonstrate a suitable approach for financing the OFTO, demonstrating adequate financial standing. In relation to this section, Applicants should, where appropriate, confirm that the information provided in the Applicant's Prequalification Submission is still accurate or, where applicable, provide updated information.

- C1 Provide copies of the previous three financial years' audited accounts, or for the period that is available if trading for less than three years.
- C2 Provide details of the Applicant's turnover relating to [number] projects/investments of comparable scale or structure in essential public infrastructure or regulated assets for the previous three financial years (or for the period that is available if trading for less than three years).
- C3 Provide details of the Applicant's Profit & Loss and cash flow relating to [number] projects/investments of comparable scale or structure in essential public infrastructure or regulated assets, for the previous three financial years (or for the period that is available if trading for less than three years).
- C4 If any Applicant's most recent audited balance sheet is more than ten months out of date, please include a copy of the chairman's half-yearly statement (if available) and a statement signed by the director responsible for financial matters setting out any known significant changes in the current financial position from the last available audited balance sheet.
- C5 Provide a statement, as at the date of the Applicant's most recent annual report and accounts of any contingent liability or loss (where not otherwise reported) that would require disclosure in accordance with International Accounting Standard 10.
- C6 Confirm whether it is proposed that the obligations of the Applicant in relation to the Project will be guaranteed by another entity, such as its ultimate holding company, and if so please also provide the information requested in questions C1 to C5 above in relation to that entity.
- C7 Provide details of the Applicant's public liability insurance and professional liability or indemnity insurance. The evidence should include the name of the insurers, policy numbers, expiry date, and limits for any one accident and the excesses under the policy.
- C8 Where the Applicant proposes to fund the Project(s) on balance sheet, provide evidence to demonstrate that the net assets of the Applicant are equal to or more than 120% of the indicative RAV of the totality of the Project(s) the Applicant has nominated in Section A.

D. Experience of Raising Finance

This section requests evidence to demonstrate a track record of raising finance. In relation to this section, Applicants should, where appropriate, confirm that the information provided in the Applicant's Prequalification Submission is still accurate or, where applicable, provide updated information.

D1 Where external financing is proposed, provide evidence of the following:

- (1) that the Applicant has either (i) net assets of at least 100% of its Projected Equity Spend¹ or (ii) has a proven track record of raising equity totalling at least 100% of its projected Equity Spend in the last 5 years; and
- (2) that the Applicant has a proven track record in the last 5 years of either (i) raising debt totalling at least 100% of its Projected Debt Spend² or (ii) investing in infrastructure assets or businesses with existing debt totalling at least 100% of its Projected Debt Spend, or (iii) a comfort letter from a A- rated financial institution stating their belief in the ability of the Applicant to raise the Projected Debt Spend.

D2 Where external financing is proposed, please give details of the Applicant's experience of raising the finance required in similar types of offshore or other infrastructure projects.

¹ Ofgem proposes that Bidders will be required to define the proportion of the proposed total indicative RAV for the Projects nominated in Section A that they intend to finance through equity. Further detail on this is set out in Appendix 8 of the consultation document.

² Ofgem proposes that Bidders will be required to define the proportion of the proposed total indicative RAV for the Projects nominated in Section A that they intend to finance through debt. Further detail on this is set out in Appendix 8 of the consultation document.

E. Revenue/Income

This section requests Applicants to demonstrate a sufficient level of annual turnover with regard to the Project(s) they have nominated in section A.

- E1 Applicants to provide evidence to demonstrate that its existing annual turnover or income level is equal to or in excess of a two times multiple of the estimated assumption for the revenue stream of the totality of the Projects for which the Applicant has nominated in Section A.

F. Financial and Commercial Approach

This section requests the Applicant to set out its proposals for funding the Project.

- F1 Provide details of the Applicant's proposals to fund the Project and how such funding will be raised. The Applicant should include details of the proposed funding structure or where corporate funding is suggested, the extent to which a parent company guarantee is available in relation to the funding. If relying on bank debt the Applicant should provide information explaining its contingency approach. The Applicant is requested to provide evidence to demonstrate its ability to deliver the proposed funding package including examples of past experience.
- F2 Provide a quantitative assessment of the Applicant's desired Project IRR, defined as a post tax, real cash flow rate of return. Project IRR is suggested to incorporate a meaningful quantitative cost assumption and to be independent of financing assumptions. Applicants would be expected to include any benefit from tax structuring.
- F3 Provide details of the Applicant's proposed approach to identify and manage the key risks in the Project that may have a material financial impact. Provide evidence, using past experience, to demonstrate the Applicant's experience of and ability to manage the commercial risks associated with large scale infrastructure assets.

G. Consortium Structure and Information

This section requests the Applicant to provide information relating to the consortium structure and consortium funding, if applicable.

- G1 Provide details (including an organisation chart) of the proposed consortium structure, making clear the identity of the entity which will hold the Offshore Transmission Licence and the relationship which each consortium member will have with the licence holder. Where ownership of the licence holder is to be split between consortium members, the proposed ownership proportions should be stated.
- G2 Specify the role that each consortium member will carry out.
- G3 Provide details of the proposed decision-making structure of the consortium.
- G4 Provide details of the proposed shareholdings in the consortium and how the Applicant proposes to share liability limits between consortium members.
- G5 Provide details of any agreements entered into between consortium members or with third parties (including financial agreements and subcontracts).
- G6 Provide details as to whether the consortium members have worked or are working together on other similar projects.
- G7 Provide details of all consortium members' interests in the UK and EU electricity industry (either direct, indirect or proposed).
- G8 Provide details of the terms of any proposed subcontracting arrangements.

H. Compliance with Relevant Regulations and Potential Conflict Issues

This section requests information on proposed compliance with relevant regulations and potential conflict issues. The Applicant is required, where appropriate to confirm that the information provided in the Applicant's Prequalification Submission is still accurate or where applicable provide updated information.

- H1 Identify any potential conflicts of interest that may arise if the Applicant were selected.
- H2 Provide details of any court actions and/or industrial tribunal hearings in which the Applicant has been involved over the last three years.
- H3 Provide details of any material pending and/or threatened court actions and/or industrial tribunal hearings against the Applicant.
- H4 Provide details of any actual, pending or threatened regulatory enforcement action taken against the Applicant in any sector.
- H5 Either (i) give particulars of any and all criminal convictions of all individuals related to the Applicant for whom any details are required in the responses to questions in section B of this QTT Questionnaire (other than for offences under the Road Traffic Offenders Act 1988 or convictions in respect of which the person has become rehabilitated under the Rehabilitation of Offenders Act 1974) or (ii) provide a statement that there are no relevant convictions.
- H6 To the extent not already covered, during the last six years, have any prosecutions been instigated or threatened, cautions given, notices served or other action taken against the Applicant or individuals related to the Applicant for whom any details are required in the responses to questions in section B of this QTT Questionnaire for contraventions of environmental legislation (including town and country planning legislation)? If yes, please provide details (including in the case of prosecutions details of charges, dates and venues of hearings, verdicts of the court and penalties, if found guilty).

I. Legal

This section requests details in relation to the Applicant's proposal to ensure compliance with applicable codes and regulatory regimes and the Applicant's proposed approach to the terms of transfer.

- I1 Provide details of how the Applicant is going to comply with the applicable codes and the application of regulatory regimes including inter alia all relevant codes, licences and regulations applicable to an OFTO.
- I2 Provide details of the Applicant's approach to addressing the terms within the proposed terms of transfer.

J. Management Capability and Experience

This section requests the Applicant's proposals to manage and deliver the transmission services, manage key interfaces with third parties and the Applicant's proposed take over plan. In relation to questions [J1 to J3] Applicants should, where appropriate, confirm that the information provided in the Applicant's Prequalification Submission is still accurate or, where applicable, provide updated information.

J1 Provide a description of the Applicant's or relevant consortium members' experience obtained in the past five years in infrastructure ownership and management.

J2 Provide details of any contracts to which the Applicant or relevant consortium members or sub-contractors are a party with a contract value in excess of £[] million where:

- There has been a failure to properly perform the services;
- There has been a claim for damages;
- Damages or performance deductions have been recovered or deducted, in either case only where the aggregate amount exceeds £[]; or
- The contract has been terminated for default.

This statement should only take account of incidents in the past five years.

J3 Provide details of the Applicant's or consortium's stakeholder management experience, including, but not limited to:

- Government agencies;
- Regulatory authorities; and
- Community groups

J4 Provide details of how the Applicant intends to deliver the Project.

J5 Provide details of the Applicant's proposed approach to managing interfaces with key third parties including, for example, subcontractors, adjoining operators, connected parties and users.

J6 Provide details of the Applicant's proposed take over plan including an indicative three month operational transition programme including quality assurance.

J7 Provide details of the Applicant's approach to the delivery of the transmission services, including roles and responsibilities of consortia members and sub-contractors.

J8 Given the regulatory environment, provide details of the Applicant's prior experience of, and approach to, bidding for and operating similar infrastructure, regulated or public assets.

K. Operational Capability

This section requests the Applicant's proposals to manage and deliver the operational requirements of the Project, including its resourcing plan.

- K1 Provide a detailed description, including examples of past experience where appropriate, of how the Applicant proposes to deliver its obligations in relation to the Project including, but not limited to:
- Managing technical and operational relationships within the regulated industry structure (such as with the GBSO);
 - Managing subcontractors;
 - Managing maintenance and repairs to the offshore transmission infrastructure to meet optimal lifetime performance requirements.
- K2 Provide a detailed description, including examples of past experience where appropriate, of the Applicant's proposed approach to providing the capability to undertake:
- Operation and maintenance of structures both offshore or onshore;
 - Operations in the marine environment;
 - Working within a regulated industry; and
 - Taking over and running assets developed by a third party.
- K3 Provide evidence, including examples of past experience where appropriate, to demonstrate the Applicant's ability to support the technical deliverables in its take over plan.
- K4 Provide details of how the Applicant or relevant consortium or sub-contractors intends to provide the resource required to deliver the transmission services showing:
- A breakdown of staff by relevant skill sets (e.g. management, technical etc);
 - Years of relevant experience; and
 - Staff turnover
- K5 Provide the names of all proposed subcontractors where either (a) the subcontractor is critical to the success of the Project or (b) the subcontract has a contract value in excess of £[].
- K6 Provide the proposed scope of the services to be provided by each subcontractor identified in your response to question K3 above.
- K7 Provide details of the relevant expertise and experience of each of the subcontractors identified in your response to question K3 above.
- K8 Provide details indicating the current capacity, workload and availability of each of the subcontractors identified in your response to question K3 above.

L. Health & Safety, Quality Assurance and Environmental

This section requests evidence to demonstrate an understanding of the key Health & Safety and environmental requirements required for OFTO operation. In relation to questions L1 to L3, Applicants should, where appropriate, confirm that the information provided in the Applicant's Prequalification Submission is still accurate or, where applicable, provide updated information.

- L1 Provide copies of the Applicant's or relevant consortium members' health and safety policy including general statement, organisational responsibilities and arrangements in the form of written safety codes of practice and safety instructions.
- L2 Have the Applicant or relevant consortium members been accredited under an accreditation scheme in relation to their proposed roles? If yes, please state which part(s) and supply a copy of the accreditation.
- L3 Provide details of any environmental and/or sustainability policy that the Applicant or relevant consortium members have adopted (including copies of any main policy documents).

Questions **L4 and L5** are to be completed by the **Applicant**, in the case of an application by a consortium on behalf of the consortium as a whole.

- L4 Explain how the Applicant/consortium would ensure the health and safety of its employees, subcontractors' employees and members of the public, and the safety of the installations during operation, maintenance and decommissioning (in compliance with applicable law). Please outline how the Applicant/consortium members have handled such issues on previous similar projects. The Applicant/consortium should include copies of relevant Health & Safety policies.
- L5 Explain how the Applicant/consortium would ensure that its activities in relation to the Project are delivered in accordance with all applicable environmental standards.

APPENDIX C: APPLICANT'S CHECKLIST