

Offshore Electricity Transmission: Cost Recovery Note for Tender Round 4 (TR4)

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Overview:

We are running a competitive tender exercise to appoint an Offshore Transmission Owner (OFTO) for the Burbo Bank Extension project. This is the only project in Tender Round 4 (TR4).

How we recover our costs of running tenders is set out in the Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2015 (the Tender Regulations). This note provides specific details on the relevant securities and payments for TR4 and how these should be provided by developers and/or bidders.

The information provided in this note will be kept under review in light of any material changes in circumstances, and may be subject to change, for example if there is a material change to the forecast of the anticipated direct costs incurred in relation to a Tender Exercise.

1. Ofgem Cost Recovery

Legal Framework

1.1. We incur costs in running OFTO tenders. To recover these costs, the Electricity Act 1989 enables us to:

- Secure a financial commitment from developers in respect of any potential liability the developer may have. This commitment is referred to as the "Security";
- Secure payments from developers and bidders to cover our costs of running a Tender Exercise. These payments are referred to as "payments";
- Secure a payment or financial security from the developer to cover costs incurred in relation to undertaking a cost estimate; and
- Secure a payment from the Successful Bidder to cover costs incurred in relation to undertaking a cost assessment.

1.2. The detailed framework for how we recover our costs of running tenders is set out in The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2015 (the Tender Regulations).

Financial governance

1.3. The procedures for administering the Tender Round will be subject to review by Ofgem's internal audit function. The National Audit Office is the statutory external auditor of Ofgem and may also wish to review the procedures for administering the Tender Round. As well as providing an opinion on financial statements, the National Audit Office can also examine and report to Parliament on the economy, efficiency and effectiveness of any public spending.

Developer's payment and Security

1.4. Each developer will be required, before a Tender Exercise is commenced for its Qualifying Project to:

- Make a payment to Ofgem of £50,000; and
- Provide Ofgem with Security in the form of a letter of credit or a cash deposit for an amount calculated in accordance with paragraph 1.10 below.

1.5. Schedule 1 sets out our standard form letter of credit and form of demand we would use if it needed to call on the Security.

1.6. Developer payments must be made by the person who made the connection request for the purposes of which the Tender Exercise has been, is being or is to be held (i.e. a person within Section 6D(2)(a) of the Electricity Act) whether or not that person is a part of the Developer Group¹.

¹ In accordance with paragraph 30(3) of the Tender Regulations.

Bidders' payments

1.7. Each bidder is responsible for its own costs of developing and submitting its Submission(s) during a Tender Exercise. In addition, a Preferred Bidder (PB) and a Successful Bidder (SB) will be required to make prescribed payments to us at the PB and SB Stages (based on a fixed fee and a potential variable component) respectively.

1.8. The timing (and other details) of each of the above payments is in accordance with the charging schedule detailed in paragraph 1.9 below:

- once it has been confirmed as PB, the PB will be required to make a payment to us; and
- the SB will be required to make a payment to us, based on a fixed fee and a potential variable component, on the grant of an OFTO Licence.

Charging Schedule

1.9. The table below sets out the fees and Security required during the Tender Exercise:

Process Stage	Participant		
	Developer	Bidder or Qualifying Bidder	Successful Bidder
Developer Security	Reflective of the estimated tender costs for each Qualifying Project	N/A	N/A
Developer payment	£50,000	N/A	N/A
Preferred Bidder payment	N/A	£250,000	N/A
Successful Bidder payment	N/A	N/A	£2,400,000
Payment for cost estimate and cost assessment costs ¹	Circa £50,000	N/A	Circa £100,000
<i>Table notes</i>			
¹ This is an indication only of the costs associated with the cost estimate process for the developer and Successful Bidder respectively. The payments will be determined on a project specific basis and invoiced after the actual costs are known.			

Developer Security

1.10. The amount of the developer Security due will be equal to the expected costs (and therefore the expected income) of running the tender for the project in question. We will directly inform developers of the required level of Security.

Successful Bidder Payment

1.11. The amount each Successful Bidder must pay at Licence Grant will consist of two components:

- a base fee of £2,400,000; and

- a variable fee to reflect additional costs that we may bear in relation to a particular Qualifying Project in certain circumstances prescribed below. If no such circumstances exist this fee is zero.

1.12. The base fee of £2,400,000 does not scale with asset value as has been the case in previous Tender Rounds.

Variable Fee

1.13. If one or more of the following events occur in relation to a particular Qualifying Project, we may need to increase the amount charged as the Successful Bidder payment for that project to reflect the incremental tender costs incurred by us as a result of the event:

- the Tender Exercise is re-run from the beginning or a particular stage;
- a BAFO Stage is held;
- any unforeseen circumstances arise in relation to the Tender Exercise, or a particular stage of the Tender Exercise, which result in increased tender costs. For example this may arise as a result of a delay to the date for completion of construction of the transmission assets or a delay to the resolution of the PB Matters.²

1.14. We will indicate the estimated level of the payment required from the Successful Bidder at the PB Stage, which will include the base fee and any variable fee anticipated at that time. The Successful Bidder payment will be confirmed once the Successful Bidder is appointed prior to the grant of the OFTO Licence.

Payment Details


1.15. Deposits made by developers in respect of cash Security are required to be paid into the following dedicated Ofgem deposit account:

Bank:	Lloyds TSB
Account Name:	Gas and Electricity Markets Authority Offshore Tender
Account Number:	00928001
Sort Code:	30 00 03

1.16. Amounts received in respect of cash security will be held on deposit until such time as they are repayable to the developer or are drawn down from the deposit account in the event that the developer forfeits the security amount.

1.17. Payments in respect of fees should be advised on the invoice but otherwise are required to be paid into the following Ofgem account:

² For further information about the PB Matters, please refer to the document 'Process to Close for Tender Round 4 (TR4)', available on the Ofgem website under the heading 'Publications and documents' here: <https://www.ofgem.gov.uk/electricity/transmission-networks/offshore-transmission/offshore-transmission-tenders/tender-round-4>



Offshore Electricity Transmission:
Cost Recovery Note for Tender Round 4 (TR4)

Account Name:	GBS re Ofgem Offshore Tender
Account Number:	12316129
Sort Code:	08-33-00
Swift Code:	CITIGB22
IBAN:	GB12CITI08330012316129

Schedule 1: Form of Letter of Credit and Form of Demand

Form of Letter of Credit

To:
Gas and Electricity Markets Authority
9 Millbank
London
SW1P 3GE

(the "**Beneficiary**")

[Date]

Irrevocable Standby Letter of Credit no.[]

At the request of [], [Issuing bank] (the "**Issuing Bank**") issues this irrevocable standby letter of credit ("**Letter of Credit**") in your favour on the following terms and conditions:

Definitions

In this Letter of Credit:

"**Business Day**" means a day (other than a Saturday or a Sunday) on which banks are open for general business in London;

"**Demand**" means a demand for a payment under this Letter of Credit in the form of the schedule to this Letter of Credit;

"**Expiry Date**" means [];

"**Total L/C Amount**" means [];

Issuing Bank's agreement

- 1.1 The Beneficiary may request a drawing or drawings under this Letter of Credit by giving to the Issuing Bank a duly completed Demand. A Demand may not be given after the Expiry Date. A Demand must be received by the Issuing Bank by [] p.m. (London time) on the Expiry Date.
- 1.2 Subject to the terms of this Letter of Credit, the Issuing Bank unconditionally and irrevocably undertakes to the Beneficiary that, within [ten] Business Days of receipt by it of a Demand, it must pay to the Beneficiary the amount demanded in that Demand.
- 1.3 The Issuing Bank will not be obliged to make a payment under this Letter of Credit if as a result the aggregate of all payments made by it under this Letter of Credit would exceed the Total L/C Amount.

Expiry

- 1.4 The Issuing Bank will be released from its obligations under this Letter of Credit on the date (if any) notified by the Beneficiary to the Issuing Bank as the date upon which the obligations of the Issuing Bank under this Letter of Credit are released.
- 1.5 Unless previously released under paragraph 1.4 above, on [] p.m. (London time) on the Expiry Date the obligations of the Issuing Bank under this Letter of Credit will cease with no further liability on the part of the Issuing Bank except for any Demand validly presented under the Letter of Credit that remains unpaid.
- 1.6 When the Issuing Bank is no longer under any further obligations under this Letter of Credit, the Beneficiary must return the original of this Letter of Credit to the Issuing Bank.

Payments

- 1.7 All payments under this Letter of Credit shall be made in pounds sterling and for value on the due date to the account of the Beneficiary specified in the Demand.

Delivery of Demand

- 1.8 Each Demand shall be in writing, and, unless otherwise stated, may be made by letter or fax and must be received in legible form by the Issuing Bank at its address and by the particular department or officer (if any) as shown in the Form of Demand.

Assignment

- 1.9 The Beneficiary's rights under this Letter of Credit may not be assigned or transferred.

ISP 98

- 1.10 Except to the extent it is inconsistent with the express terms of this Letter of Credit, this Letter of Credit is subject to the International Standby Practices (ISP 98), International Chamber of Commerce Publication No. 590.

Governing Law

- 1.11 This Letter of Credit and any non-contractual obligations arising out of or in connection with it are governed by English law.

Jurisdiction

- 1.12 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Letter of Credit (including a dispute relating to any non-contractual obligation arising out of or in connection with this Letter of Credit).

Yours faithfully,
[Issuing Bank]
By:



Form of Demand

To: [ISSUING BANK]
[Date]

Dear Sirs

Standby Letter of Credit reference [] issued in favour of the Gas and Electricity Markets Authority (the "Letter of Credit")

We refer to the Letter of Credit. Terms defined in the Letter of Credit have the same meaning when used in this Demand.

We certify that the Authority has determined that the sum of £[] shall be forfeited from this security [pursuant to The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2015/any successor regulations]. We therefore demand payment of the sum of £[].

Payment should be made to the following account:

Name: []

Account Number: []

Bank: []

The date of this Demand is not later than the Expiry Date.

Yours faithfully

(Authorised Signatory)

(Authorised Signatory)

For

Gas and Electricity Markets Authority