

## **TERMS OF REFERENCE**

### **FOR**

### **COMPETITIVE BIDS from Consultancy Firms / Institutions for Appointment of Consultants for Assisting MERC for Fixation of Trading Margin in the Intra-state trading of electricity under Section 86 (1)(i) of the Electricity Act, 2003**

#### **1. INTRODUCTION :-**

**Maharashtra Electricity Regulatory Commission (MERC)** was established on August 5, 1999 under the Electricity Regulatory Commission Act, 1998, a Central Act which was superseded by Electricity Act, 2003 (EA 2003). The Commission under Section 86 of the EA 2003 undertakes various functions, such as, determination of tariff for generation, transmission and wheeling of electricity; bulk or retail supply of electricity, as the case may be, within the State of Maharashtra; regulate electricity purchase and procurement process of Distribution Licensees; issue Licenses for Transmission, Distribution, and Trading of electricity and promote generation /co-generation of electricity from renewable sources of energy.

**MERC** intends to appoint technically qualified and experienced consultants from professionally managed Consultancy Firms/Institutions to assist the Commission for discharging its functions effectively for the tasks listed under Para 2.

The objective of the assignment is to assist the Commission in conducting a detailed study for consideration and fixation of trading margin with following scope of works and to determine appropriate level of trading margin for Intra-State trading of electricity in the State of Maharashtra.

#### **2. This study shall covers the following;**

- a. To make an empirical study on the implications of imposing trading margin cap on the volume of electricity traded and its impact on the development of electricity trading market.
- b. To study the historical price of power traded and the commercial of change in prices of traded power on the margins of the trader.

- c. To study whether the trading margin needs to be imposed in the context of emergence of power exchanges.
- d. To interact with major Traders who are carrying out Intra-State trading transactions in the State of Maharashtra.
- e. To assess the risk involved in various product in power trading business in the current environment and whether the return of trader is commensurate with the size of the risk and investment made by him.
- f. To assess the possibility of trading margin to be sensitive to volume/ period of the transaction.
- g. To suggest an appropriate trading margin that encourages healthy trading market and protection of consumers' interest.
- h. While studying above aspects, suggest any modifications to be carried out, if any, in existing MERC Regulations.

- 3.** The assignment is expected to be completed in EIGHT WEEKS time from the date of award of the assignment, including discussion with the Commission, if held/required.

(Note - The Commission may at its discretion assign or exclude any task, irrespective of the fact whether such a task is mentioned above or not).

**4. Eligibility & Qualification criteria**

The Consultancy Firm/Institution intending to bid for the above mentioned tasks should fulfill the following eligibility criteria (satisfactory evidence to be provided by the firms/institutions):

- 4.1. Who can bid? The 'bidder' may be either a Firm or a Consortium, which the bidding Firm may constitute with other Firm/s or entities, to present a full range of expertise for submitting proposal for the said assignment. In case of a Consortium as Bidder, the names of all the firms/ agencies/ entities/ Consultants/ parties to be associated with the **assignment** shall be submitted along-with the offer.

- 4.2. The Consultancy Firm or Institution should have sufficient number of qualified consultants with good experience.
- 4.3. **Team Leader /Project Director:** The Consultancy Firm or Institution shall nominate Team Leader/Project Director who should have sufficient qualification and experience.
- 4.4. **Accommodation:** No accommodation will be provided by the Commission. All the consultancy firm/institution have to make their own accommodation arrangement to their team leader/project Director for residing in Mumbai if requires.
- 4.5. **Contract Period:** Contract would be for a period of 1 year or till the completion of assignment whichever is earlier.
- 4.6. The Consultancy Firm/ Institution should furnish copies of certificate of registration as services firm and PAN, and service tax registration.

## **5. Guidelines for submission of the bid:**

- 5.1. The duly completed Bid as described below, in a sealed envelope, super- scribed "Offer for Consulting services for Assisting MERC for Fixation of Trading Margin in the Intra-state trading of electricity under Section 86 (1)(j) of the Electricity Act, 2003" should be submitted so as to reach the office of the Commission on or before **16:00 hrs on 22.08.2011** In the event of the specified date for the submission of the bids being declared a holiday, the bids will be received up-to the appointed time on the next working day of Commission's office. Any bid received after the abovementioned deadline will be rejected and may be returned un-opened.
- 5.2. The Bid shall comprise of two parts, i.e. (i) Technical Offer, and, (ii) Financial Offer, as follows:
  - (I) The Technical Offer, as per the format given at **Annexure – I, I - A, I – B** shall be submitted in triplicate (one original plus two copies of the Offer), sealed in an envelope which must be clearly marked as "Offer for

Consulting services for Assisting MERC for Fixation of Trading Margin in the Intra-state trading of electricity under Section 86 (1)(j) of the Electricity Act, 2003"  
(Technical Offer)

- II) The Financial Offer, as per the format given at **Annexure-II** -one original plus one copy of the Offer, shall be submitted, sealed in a separate envelope which must be clearly marked as "Offer for Consulting services for Assisting MERC for Fixation of Trading Margin in the Intra-state trading of electricity under Section 86 (1)(j) of the Electricity Act, 2003" (Financial Offer)"

Note: Technical Offer and Financial Offer should be in two different envelopes marked as mentioned above. These two sealed envelopes should be submitted in a single large envelope / packet marked as mentioned in Para 4.1.

- 5.3. The Bids, including the Financial Offer shall be valid for three (3) months from the due date of submission of the Bids, for acceptance by the Commission as well as for issue of a Letter of Intent/ Order by the Commission, and for full duration of the Contract period.
- 5.4. The prospective Bidders may note that the offers, if sent by them by E-mail, Telex, cable or facsimile, will not be considered as received by the Office of the Commission.
- 5.5. **Earnest Money Deposit:**  
The Technical Offer should be accompanied by an Earnest Money Deposit of **50,000/- (Rupees Fifty Thousand only)**, in the form of a Demand Draft drawn in favour of 'Maharashtra Electricity Regulatory Commission', payable at Mumbai. The earnest money will be returned to the unsuccessful bidders, after appointment of the Consultant. Bids without the Earnest Money Deposit as above will not be accepted, and will be summarily rejected.
- 5.6. **Deviations:**

The bidder must ensure that Technical and the Financial Offers submitted by him satisfy all the Terms and Conditions specified in the Tender specifications.

In case of any deviations from the requirements of this Tender, the Bidder shall specifically bring out the same in a separate Sheet enclosed to the Technical Bid, entitled "Schedule of Deviations", and make a reference to the same in covering note of the Bid. In absence of any such schedule, it shall be deemed that the Bidder has no deviation, and Bidder shall be meeting all the requirements as per the Tender specifications. The Commission reserves the right to reject any bid, based on any deviation taken by the Bidder, or otherwise, without assigning any reason.

- 5.7. Any revision/correction in the Bid after opening of the Bids will not be allowed. Any such revision will render the Bid as non-responsive, and also result in forfeiture of Earnest money Deposit.
- 5.8. The bidder shall make in his bids such disclosures as may be required to ascertain that the bidder has no conflicting interest in undertaking the proposed assignment

## **6. General Conditions of Contract:**

- 6.1. **Security Deposit:** The successful bidder shall furnish a Bank Guarantee (as per the Format attached as **Annexure-III**) from a Scheduled Bank, on a Stamp Paper of Rs.100/-, as Contract Security Deposit, for a value equal to 5% of the contract value, valid for the entire period of the contract plus a period of three (3) months, to enable lodging of any claims, arising due to failure on Consultant's part. As an alternative, the Consultant may furnish a Demand Draft drawn in favour of 'Maharashtra Electricity Regulatory Commission', payable at Mumbai, money of

which will be returned by the Commission after satisfactory completion of work.

**6.2. Terms of Payment:**

<u>Sr. No.</u>	<u>Payment</u>	<u>Event</u>
1	Advance of 10% of Contract value.	Against submission of 'Mobilisation Advance Bank Guarantee valid for entire period of contract/assignment.
2	60% of contract value	On submission of draft reports, in six hard copies and one soft copy, to the satisfaction of the Commission
3	Full and Final 30% payment	On acceptance of Final Report, by the Commission as well as handing over all the relevant records of data and statistic, etc and 6 hard copies and one soft copy of Final report.

**6.3. Tax Deduction at Source:** The Income Tax or any other tax liable to be deducted, as per the prevailing rules will be deducted at source before effecting the payment, for which the Commission will issue TDS Certificate/s. Service Tax, as applicable shall be payable extra, at the prevalent rates.

**6.4. No extra charge:** The charges quoted by the consultancy firms/institutions in his Bid, and accepted by the Commission in the Contract, will be inclusive of the costs of Consultant's Teams' travel, lodging and boarding, and also all incidental expenses, professional fees etc., incurred by the teams, in connection with the assignment. No separate charges will be payable by the Commission on any such account.

**6.5.** The Consultants shall keep the Commission and all the concerned Utilities to be visited, indemnified from any damages, on any account.

**6.6. Confidentiality of data and documents :**

The Intellectual Property Rights (IPR) of the data collected as well as the deliverables produced for the Commission shall remain with the Commission. No one shall **not** utilise or publish or disclose or part with, to a third party, any part of the data or statistics or proceedings or information collected for the purpose of this assignment or during the course of the assignment for the Commission, without the express written consent of the Commission. The Consultant shall be bound to hand-over the entire set of records of assignment to the Commission before the expiry of the contract, and before the final payment is released by the Commission.

- 6.7. **Conflict of interest:** The consultant appointed by the Commission, shall in no case represent or give opinion or advice to others in any matter which is adverse to the interest of the Commission.

## **7. Bid Opening**

- 7.1. The Technical Offers of the Bids will be scrutinised by the Commission and the consultancy firms/institutions who have qualified for further evaluation will be intimated by the Commission. The technical qualified consultancy firms/institutions would be required to make ½ hours presentation before the Commission on issues relating to technical, legal, financial, etc. The consultancy firms/institutions shall clearly mention the name, designation and contact details of the person to be informed in their organisation regarding such intimation and regarding queries /clarifications, if any.
- 7.2. **Pre-Bid Discussion:** For the benefit of the bidding firms, a pre-bid session will be held at **16:00 hrs on 10.08.2011** at the Commission's Office.
- 7.3. **Opening of Technical and Financial offers:** The Financial Offers will be opened at **16:00 hrs on 25.08.2011**

**(tentatively)** at the Commission's office, in the presence of the qualified bidders, who may choose to remain present. The representative of such bidders, desirous of attending shall bring with him duly signed Letter of Authority.

## **8. Award of appointment on Contract:**

### **8.1. Contract Finalisation:**

8.1.1. On completion of the evaluation of the technical and financial offers of the Bids received, and finalisation of the Successful Bidder/s, the Commission will issue 'Letters of Intent' (**LOIs**) to the successful bidder/s, along with a format of the Contract to be signed.

8.1.2. Within seven days of receipt of the LOI, the successful bidder(s) shall enter into a Contract with the Commission in the prescribed format and by submitting the Contract Security Deposit (in form of bank Guarantee).

If the successful bidder fails to enter into the said Contract, within 7 days of issue of Order, the Earnest Bid Deposit submitted by the bidder will be forfeited, and the Commission may exercise its right to invite the next-in-line 'successful bidder' to award him the Contract. The Commission may also exclude the former bidder from all future assignments/ Tender processes.

8.1.3. The Commission reserves the rights, as follows:

- I) To award the Contract against this Tender, to a single bidder for all the work or to a number of bidders.
- II) To decide to cancel this Tender, and not to proceed in the matter, at any stage of the bidding or analysis of the Bids and also accept or reject any or all bids, without giving any



explanation, whatsoever. In case of cancellation, the Commission shall have discretion to decide whether to return or not the un-opened portions of the Bidders' documents and also how to deal with the documents retained by the Commission.

III) To disqualify 1) any bidder found canvassing in the office of the Commission during the bidding process 2) any bidder who has worked with the Commission in the past but has failed to deliver appropriate output for similar type of tasks as mentioned in Para 2.

IV) The Commission may ask the bidders to make presentation of the proposed methodology (Annexure-I-B)

## 8.2. **Operation of the Contract:**

8.2.1. Immediately on entering into a Contract for work, as above, the detailed work plan, and dates for the milestones for monitoring progress of various works shall be discussed and finalised.

8.2.2. The Commission is not responsible for any accidents occurred at the time of execution of the works under this assignment. Members of the team visiting the power station/field areas or any related sites, in connection of the assignment should have a good knowledge of safety precautions at the premises being visited.

8.3. **Termination of Agreement :** The Commission may terminate a contract to which these Terms apply if:

8.3.1. The Consultant is unable to address the assigned works,

8.3.2. Quality of the assigned works is not to the satisfaction of the Commission

8.3.3. The Consultant fails in timely achievement of the milestones as finally decide by the Commission as per Para 7.2.1.

8.3.4. The Consultant commits any material or persistent breach of its obligations under the contract (which, in the case of a breach capable of remedy, shall not have been remedied within 15 days of intimation), or

8.3.5. Team members of the Consultant are found lacking in honesty and integrity;

**8.3.6. The Consultant becomes insolvent;**

The Commission reserves the right to terminate the contract, by giving fifteen days' notice to the Consultant. In such event, the Contract Security Deposit will stand forfeited.

8.3.7. Termination shall be effected by written notice served on the Consultant and shall take effect in 15 days of delivery of such notice. The termination will be without prejudice to either party's rights accrued before termination.

8.4. **Governing law:** The contract shall be governed by and construed in accordance with the laws of the Republic of India.

**9. Points for Preparation of the Bid:**

All the annexure should be on A4 size pages.

**A. Technical Offer:**

9.1. The bidders for the contract shall provide a brief description of the Firm's organisation and, if applicable, the members of Consortium, and a clear outline of **assignments executed in the past three years** (as per **Annexure I-A**). The information provided on each assignment shall indicate, inter-alia, the objectives of the assignment, its duration, profiles of the staff

engaged, approximate value of contract, and completion status along-with the outcome of the assignment.

- 9.2. The bidders shall provide a concept note about their understanding of the nature of the tasks they are supposed to undertake while working with MERC under the present contract (Annexure I-B). The note should not be more than 5 pages.
- 9.3. The information furnished by the Bidder, as per Annexure- I, I - A, I - B, of this document, shall form a part of the Technical Offer and be submitted along-with the same.
- 9.4. The Demand Drafts for Earnest money Deposit ( 50,000/-) shall be attached with the Technical offer.

**B. Financial Offer**

- 9.5. The bidders shall submit their financial bids in **Annexure II**. The bidder shall quote a consultancy fee which shall be inclusive of all applicable taxes (except Service Tax) and duties, and Government levies, Octroi (as applicable), insurance, transportation and allied expenses, etc. Service tax will be paid extra at the applicable rates in case the firm/ agency quotes a valid Service Tax Registration number in his bid and in the invoices.
- 9.6. No alteration to the price bid, for any reason or lapses, whatsoever, will be allowed after the Bid opening. Any additional payment to the Consultant, over and above the Contract price, will **NOT** be admissible by the Commission.
- 9.7. The quoted prices shall remain fixed for the duration of the Contract. No additional amount shall become payable by the Commission on account of escalation or any other reason

**10. Basis for Evaluation of the Offers**

**A. Technical Evaluation**

10.1. The Technical evaluation will be carried out based on the following criteria, out of a total of 100 marks for all the criteria.

The weightage for the different criteria will be: -

- a. Relevant, experience & track record of the consultancy firm / institution (**Annexure I-A**) 50%
- b. Concept note on the given task to be taken up. (**Annexure I-B**) 50%

10.2. The qualifying minimum total score for the technical bid shall be 70%, subject to a minimum 35% score and 35% in criteria (a) and (b) of Para 10.1 respectively. The financial offers of the qualified bidders only will be opened for further evaluation.

10.3. The bidders whose proposals have not met the minimum qualifying requirement or were considered non-responsive to the Terms of Reference may be informed by the Commission in this regard, and they may be asked to collect their financial offers.

10.4. Among the experienced consultancy firms / institution in power sector, the highest scorer(s) will be given a technical score of 100 and the others will be given pro rata scores.

**(B) Financial Evaluation**

10.5. Among the financial offers, from the qualified bidders, the lowest offer(s) will be given a financial score of 100 and the others will be given pro rata scores .

10.6. A composite score (weighted average) of technical and financial scores will be evaluated. While calculating a composite score, the weightage shall be 70% for technical score and 30% for financial offer.

\* \* \* \* \*

**Annexure – I**

(FORMAT)

**Technical Offer**

Date: \_\_\_\_\_

FROM:

TO,  
Secretary,  
MERC, Mumbai

**Subject:** "Offer for Consulting services for Assisting MERC for Fixation of Trading Margin in the Intra-state trading of electricity under Section 86 (1)(j) of the Electricity Act, 2003" as per Para 2 of Bidding Document"

Sir,

I/We, \_\_\_\_\_, enclose herewith our Technical Offer for appointment of the firm for "Offer for Consulting services for Assisting MERC for Fixation of Trading Margin in the Intra-state trading of electricity under Section 86 (1)(j) of the Electricity Act, 2003" as per Para 2 of Bidding Document"

\*We have not taken any deviation from the scope of work or working conditions and confirm compliance to all the conditions specified in the Tender documents/ \*We have taken a few deviations from the Tender specifications and details of same are brought out in Annexure-\_\_\_\_\_.

*(Note: \* = to be appropriately modified by the bidder.)*

The Earnest money deposit of 50,000 (Rupees Fifty thousand only) is enclosed in the form of the Demand Drafts bearing nos.\_\_\_\_\_.

Yours faithfully,

Signature \_\_\_\_\_  
Full Name \_\_\_\_\_  
Designation \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_

Encl.: *(list of all enclosures)*

X - - X - - X  
**Annexure - I-A**  
(FORMAT)

**Relevant Experience & Track Record of the Consultancy Firm /  
Institution**

Date: \_\_\_\_\_

A brief description of the organisation and the assignments of similar nature carried out in the last 3 years.

FROM:

TO: Secretary  
MERC, Mumbai

A. Brief description of the organisation:

1. Name of the Organization
2. Nature of the Organization
3. Business/Profession and number of years in the business
4. Number of staff
5. Registration
6. Affiliation with national and international professional/financial bodies.
7. Annual Turnover (last three years)
8. Any other relevant information

B. Assignments carried out in the last 3 years

*(The following information should be given in respect of each assignment separately.)*

1. Title of assignment
2. Objective of assignment
3. Narrative description of the assignment.
4. Name of the client
5. Address
6. Commencement and completion of the assignment
7. Number of man months as well as the duration period for completion of assignment
8. Outcome of the assignment.
9. Contract value of the assignment
10. Any other relevant information.

Yours faithfully,

Signature \_\_\_\_\_

Full Name \_\_\_\_\_

Designation \_\_\_\_\_ Address \_\_\_\_\_

**Annexure – I-B**

**Approach & Methodology Note and Work-Plan**

Concept Note on the Understanding of the Tasks Envisaged

(FORMAT to be developed by the Bidder note more than 5 pages)

(Please mention clearly the time (in firms of weeks) to complete the project).

**Annexure - II**

(FORMAT)

**FINANCIAL OFFER**

Date:

FROM:

TO:

Secretary,  
MERC, Mumbai

Subject:

Sir,

This has reference to our Technical Offer under our reference no. \_\_\_\_\_ dated \_\_\_\_\_, for consulting services for assistance to the Commission in the matter of Offer for Consulting services for Assisting MERC for Fixation of Trading Margin in the Intra-state trading of electricity under Section 86 (1)(j) of the Electricity Act, 2003 "Specific Conditions Fixation of Trading Margin as per Para 2 of Bidding Document"

I/We \_\_\_\_\_ (Firm), hereby furnish our Financial Offer of Rs. .... (Rs.....), in respect of the group-area covered in our Technical Offer, as follows;

We confirm that the above quoted prices are inclusive of all costs (excluding service tax) for carrying out the work as specified in the bidding documents.

Yours faithfully,

Signature \_\_\_\_\_ Full Name \_\_\_\_\_

Designation \_\_\_\_\_ Address \_\_\_\_\_



**Annexure – III**  
(FORMAT)

**CONTRACT SECURITY DEPOSIT**

To  
The Secretary,  
MERC

WHEREAS ..... (Name of agency / firm) hereinafter called "the firm" has undertaken assignment of Contract No.....dated.....to assist MERC in the matter of ... ..... works as per Para 2 of Bidding Document ..... (hereinafter called ": the Contract").

AND WHEREAS it has been stipulated by you in the said Contract that the firm shall furnish you with a bank Guarantee by a scheduled bank for the sum specified therein as security for compliance with the firm's performance obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the firm a guarantee

THEREFORE WE, ....., (Bank's name and address) hereby affirm that we are Guarantors and responsible to you, on behalf of the firm, up to a total of ..... (Amount of the guarantee in words and figures) and we undertake to pay you, upon your first written demand declaring the firm to be in default the contract and without cavil or argument, any sums within the limit of.....as aforesaid, without your needing to prove or to show the grounds or reasons for your demand or the sum specified therein.

This guarantee shall remain valid until the end of the .....day of....., 20....., for acceptance of your claims in the matter.

Signature and Seal of Guarantors  
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Date -----

Address -----

