

TERMS OF REFERENCE
FOR
COMPETITIVE BIDS from Consultancy Firms / Institutions for
Appointment of Consultants for Assisting MERC in various Technical Tasks

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(MERC) was established on August 5, 1999 under the Electricity Regulatory Commission Act, 1998, a Central Act which was superseded by Electricity Act, 2003 (EA 2003).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 known as project consultant from professionally managed Consultancy Firms/Institutions to assist the Commission for discharging its functions effectively for the tasks listed under Para 2.

- 2.** The tasks covered under the present contract are inter alia as below:
- 2.1. Multi-Year Tariff (MYT)
 - 2.2. Determination of Tariff for New Thermal Generating Units
 - 2.3. Determination of Tariff for New Hydro Power Plants
 - 2.4. Determination of tariff for Renewal Energy Resources.
 - 2.5. Preparation of Draft Regulations
 - 2.6. Fixation of Trading Margin.
 - 2.7. Retail and Wire Business- Maintenance of separate Accounts
 - 2.8. Specific License Conditions for SEZ Project area
 - 2.9. Approval for power procurement
 - 2.10. Processing of application for new Transmission, Distribution and Trading Licence
 - 2.11. Any other task assigned by the Commission.

(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).

3. 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):

- 3.1. 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.
- 3.2. The Consultancy Firm or Institution should have sufficient number of qualified senior level / middle level resources / consultants on its payroll for a minimum period of one year who can be deployed with MERC for a period of minimum three years.
- 3.3. **Types of appointment:** There will be two types of appointment of consultants – regular basis and assignment basis. The resource / consultant appointed on regular basis shall work in the office of the Commission whereas the resource / consultant appointed on assignment basis would be required to work for MERC as and when the need would arise. The payment would be on the basis of actual working days in a month, subject a maximum of the approved monthly fee of the resource / consultant. One working day would constitute work of eight hours. The rate of one working day would be calculated on the assumption that the approved monthly fee is for 22 working days.
- 3.4. **Project Director:** The bidder shall nominate project Director among the project consultants appointed.

- 3.5. **Accommodation:** No accommodation will be provided by the Commission.
- 3.6. **Requirement of consultants:** The Commission requires Senior Level and Middle Level Resources/Consultants. The Commission reserves its right to appoint any number of resources / consultants in any category.
- 3.7. **Batch of consultants:** The Consultancy Firm or Institution is required to provide at least one batch of one Senior Level and at least two middle level resources /consultants which constitutes one batch of consultants.
- 3.8. The batch of consultants proposed by the Consultancy Firm or Institution for appointment shall be well acquainted with the Regulatory environment in the power sector, and functioning of Utility / Central or State Electricity Companies / Central or State Electricity Regulatory Commissions (CERC/SERCs), and possess experience in dealing with such similar matters on a wide range.
- 3.9. **Experience:** Senior Level Resources should have minimum 7 years experience and Middle Level Resources should have minimum 3 years experience in relevant field. Such Resources / Consultant of the Consulting Firm or the Institution should have completed at least one assignment in the past, on any subject mentioned in para 2 above. The Consultancy Firm or Institution is required to submit documentary evidences in support of the individual experience.
- 3.10. **Ceiling for Monthly Professional Fees:** The bidder should quote their fees within the ceiling of Rs. 5.00 lakhs for proposed Senior Level Resources/Consultant and Rs. 2.00 lakhs for Middle Level Resources/consultants.
- 3.11. **Qualification:** The Senior Level and Middle Level Resources / consultants proposed for appointment by the Consultancy Firm or Institution should be Graduate/Post Graduate in the relevant disciplines and additionally may have MBA/ICWA/CA or Law.

- 3.12. Age Limit : The resources proposed for the assignment shall be within the age limits of 25 years to 50 years.
- 3.13. **Contract Period:** Initial contract would be for a period of 3 years which is extendable further for a period of 2 years.
- 3.14. The Consultancy Firm/ Institution should furnish copies of certificate of registration as services firm and PAN, and service tax registration.

4. Guidelines for submission of the bid:

- 4.1. The duly completed Bid as described below, in a sealed envelope, super- scribed "Offer for consulting services for assistance to the Commission in technical works as mentioned in Para 2 of Bidding Document" should be submitted so as to reach the office of the Commission on or before **16:00** hrs on **27.12.2011** . 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.
- 4.2. 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 - C, I - D and I - E.**, 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 assistance to the Commission to facilitate " technical works as mentioned in Para 2 of the Bidding Document" (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 assistance to the Commission to facilitate " technical works as mentioned in Para 2 of Bidding Document" (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.

4.3. The Bids, including the Financial Offer shall be valid for six (6) 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.

4.4. 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.

4.5. **Earnest Money Deposit:**

The Technical Offer should be accompanied by an Earnest Money Deposit of Rs.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.

4.6. **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.

- 4.7. 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.
- 4.8. 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

5. General Conditions of Contract:

- 5.1. **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 Rs.5,00,000/- (Rupees Five Lakh only), 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.
- 5.2. **Terms of Payment:**
The payment would be made to the consultancy firm / institution.
Payment for the consultants appointed on regular basis would be made every month after their satisfactory working during the month.
Payment for the consultants appointed on assignment basis would be made every month subject to the submission of works sheet of work carried out by the consultants during the month.
- 5.3. **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.

- 5.4. **No extra charge:** The charges quoted by the Bidder 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.
- 5.5. The Consultants shall keep the Commission and all the concerned Utilities to be visited, indemnified from any damages, on any account.
- 5.6. **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.
- 5.7. **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

6. Bid Opening

- 6.1. The Technical Offers of the Bids will be scrutinised by the Commission and the bidders who have qualified for further evaluation will be intimated by the Commission. The Bidders 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.

- 6.2. Pre-Bid Discussion: For the benefit of the bidding firms, a pre-bid session will be held at **16.00 hrs on 13.12.2011** at the Commission's Office.
- 6.3. Opening of Financial offers: The Financial Offers will be opened at **16:00 Hrs on 6.1.2012 (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.

7. Award of appointment on Contract:

7.1. Contract Finalisation:

- 7.1.1. 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.
- 7.1.2. 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.

- 7.1.3. 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.

7.2. Operation of the Contract:

- 7.2.1. 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 for regular project consultants. As and when needed, the consultants on assignment basis would be employed on specific tasks. The required mandays and terms lines would be finalized at the time of employment. All such decisions would be taken after discussing the matter with the project director.
- 7.2.2. The consultants named in the proposal shall be actually available for carrying out the work. Commission will not consider any substitutions of persons during the contract period except in cases of unexpected delays in the starting date of a visit due to incapacitation of key professional staff for reasons of health.
- 7.2.3. 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.

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

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

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

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

7.3.4. 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

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

7.3.6. 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.

7.3.7. 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.

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

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

All the annexure should be on A4 size pages.

A. **Technical Offer:**

- 8.1. 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.
- 8.2. The bidder must submit **updated curriculum vitae (CV)** of all the proposed team of Senior Level and Middle Level Resources (consultant) for this contract, duly signed by the concerned authority of the bidder (as per **Annexure I-C and Annexure I-D**). Key information should include: number of years with the firm, professional qualifications and degree of responsibility held in various assignments during the last three years. Curriculum Vitae of the consultants should clearly and separately identify those assignments, directly relevant to the proposed contract.
- 8.3. The bidder shall propose a methodology for transferring knowledge to the staff of the Commission. (not more than three pages) (Annexure I-E)
- 8.4. The consultant proposed by the bidder should be regular employees of the firm/ consortium members. No alternative to the consultant may be proposed. It is expected that the bidder would deploy mature persons, of high integrity.
- 8.5. The information furnished by the Bidder, as per Annexure, I, I - A, I -C, I – D & I - E of this document, shall form a part of the Technical Offer and be submitted along-with the same.
- 8.6. The Demand Drafts for Earnest money Deposit (Rs.50,000/-) shall be attached with the Technical offer.

B. Financial Offer

- 8.7. The bidders shall submit their financial bids in Annexure II. The bidder shall quote a monthly fee offer for individual consultant willing to work on either on retainership basis and or on assignment basis or on both, 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.
- 8.8. 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.
- 8.9. 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

9. Basis for Evaluation of the Offers

A. Technical Evaluation

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

The weightages for the different criteria will be: -

- | | |
|---|-----|
| a. Relevant experience & track record of the consultancy firm / institution (Annexure I-A) | 30% |
| b. Qualifications, experience and competence of the consultants (Annexure I-C & I-D) | 60% |
| c. Proposed methodology in respect of transfer of knowledge to the staff of the Commission. (Annexure I-E). | 10% |

- 9.2. The qualifying minimum total score for the technical bid shall be 70%, subject to a minimum 14% score and 35% in criteria (b) and (c) of Para 9.1 respectively. The financial offers of the qualified bidders only will be opened for further evaluation.
- 9.3. A bidder is qualified if it has at least one batch of consultants who have qualified as per para 9.2.
- 9.4. 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.
- 9.5. The technical scores will be given individually to all project consultants. The scores pertaining to criteria a, & c of Para 9.1 of a particular bidder will be common to all the project consultants proposed by that bidder. The score pertaining to the criteria b of Para 9.1 will be evaluated individually for the project consultants.
- 9.6. Among the qualified consultants as per Para 9.2, the highest scorer(s) will be given a technical score of 100 and the others will be given pro rata scores.

(B) Financial Evaluation

- 9.7. Among the financial offers (monthly fees of consultants), the lowest offer(s) will be given a financial score of 100 and the others will be given pro rata scores
- 9.8. Among the financial offers (monthly fees of consultants), the lowest offer(s) will be given a financial score of 100 and the others will be given pro rata scores
- 9.9. A composite score (weighted average) of technical and financial scores will be evaluated in case of each project consultant. While calculating a composite score

of the project consultant, the weightages shall be 70% for technical score and 30% for financial offer.

- 9.10. Batch scores will be calculated by taking weighted averages of individual composite scores of the Resources / consultant and the lowest financial score in that batch. The. The selection of 'successful bidder(s) shall be based on the highest batch scores.

* * * * *

Annexure – I

(FORMAT)

Technical Offer

Date: _____

FROM:

TO:

Secretary,

MERC, Mumbai

Subject: “Offer for consulting services for assistance to the commission to facilitate technical works 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 assistance to the commission to facilitate technical works 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 Rs.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 - -

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 5 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-C

Qualifications, Experience and Competence of the Consultants (Para 8.3)

**Format of Curriculum Vitae (CV) for Consultant proposed
for the Assignment (separate sheet for each Consultant)**

Name:

Name of Firm:

Profession:

Age & Date of Birth:

No. of Years with Firm:

Membership of Professional Societies:

Detailed Tasks Assigned:

Key Qualifications:

(Give an outline of staff members' experience and training most pertinent to the tasks on assignment. Describe degree of responsibility held by each staff member on relevant previous assignment and give dates and locations. Use up to half a page)

Education:

(Summarize College/University and other specialised education of each staff member, giving names of schools, dates attended and degrees obtained).

Employment Record:

(Starting with present position, list in reverse order every employment held. List all positions held by the staff members since graduation, giving dated, name of employing organization, title of positions held and location of assignments. For experience in the last ten years, also give types of activities performed and Client references, where appropriate. Use up to three-quarter of a page).

Experience in Utility Business: Position held, Nature of work, Highlights/ Achievements.

Certification:

I, the undersigned, certify that, to the best of my knowledge this bio-data correctly describes myself, my qualifications and my experience.

Signature of Staff Member

Date:

It is certified that the concerned person is a full time employee of the Firm.

Signature of authorised Official from the Firm (with name and designation)

Annexure – I-D

Qualifications, Experience and Competence of the Consultant for the Assignment (contd)

List of the Consultants included in the team of a Bidder

1. Project Personnel

Sr.No.	Name	Position in the parent Organisation (Bidding Firm)	Willing to work on regular basis or assignment basis or both	Willing to work as Senior level or Middle level resource
1				
2				
3				
4				
5				

Annexure I-E

(No prescribed format)

Methodology for Transferring Knowledge to the Staff of the Commission.

(Not more than three pages) (Para 8.4)

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 to facilitate technical works as per Para 2 of Bidding Document”

I/We _____ (Firm), hereby furnish our Financial Offer, in respect of the Group-area covered in our Technical Offer, as follows;

Sr. No	Name of the person as per Annexure I – D	Monthly Fee*
1		
2		
3		

Note: Ceiling for Senior Level Resources Rs.5 Lakhs and Middle Level Resources Rs.2.00 lakhs.

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 ... tariff related 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 theday of....., 20....., for acceptance of your claims in the matter.

Signature and Seal of Guarantors

Date -----

Address -----