

TERMS OF REFERENCE
FOR
COMPETITIVE BIDS from Consultancy Firms / Institutions for
Appointment of Consultants for Assisting MERC for specifying Specific Conditions
of Licensee for the SEZ Area

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(MERC) was established on August 5, 1999 under the Electricity Regulatory Commission Act, 1998, a Central Act which was superseded by Electricity Act, 2003 (EA 2003).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.

2. The tasks covered under the present contract is as below:

Section I: SEZ Overview

Study on SEZ Act, SEZ Rules, SEZ Policies and other Regulations with reference to the Generation, Transmission & Distribution of Electricity – Central Level

- a. Electricity Act 2003
- b. National Tariff Policy
- c. National Electricity Policy
- d. Draft Report on Specific Condition of License for SEZs by Forum of Regulators

Section II: Duties and Obligation

Role of SEZ Developer & Co Developer and Pros & Cons of the same as a Deemed Distribution Licensee:

Benefits available to SEZ Developer/ Co- Developer.

Section III: Maharashtra SEZ Overview

Study on SEZ Act, SEZ Rules, SEZ Policies and other Regulations with reference to the Generation, transmission & distribution of Electricity – State Level

Assessment of upcoming SEZs in the State of Maharashtra

- a. SEZ approved in-principle:
- b. SEZ formally approved
- c. Notified SEZs:
- d. Functional SEZs
- e. Load Profile Type of SEZs

Key Regulatory Provisions/ orders on SEZ issued by

- a. CERC
- b. MERC
- c. Government of India
- d. SERC's – Report on Specific Condition of Licensee issued by other SERCs

Section IV: Licensing & Regulations

License Related

- a. Virgin SEZ area – No existing infrastructure available (Parallel License)
- b. SEZs Carved out of existing distribution Licensee (Exclusive License)
- c. SEZ as a deemed distribution licensee using wires of existing distribution licensee
- d. Any other

Framing of Separate Regulations/ Guidelines for SEZs:

- a. Minimum Area required for granting Licensee in SEZ
- b. Condition for Granting Parallel License
- c. Specific Conditions of Licensee of SEZs
- d. Duty & Obligation of Licensee
- e. Condition of Supply of Electricity
- f. Electricity Supply code & Distribution Code
- g. Tariff Issues
 - I. Cost Plus
 - II. Ceiling on Incumbent Licensee
 - III. Performance based
 - IV. Any other related issue
- h. Standards of Performance
- i. Open access, wheeling charges & payment of cross subsidy charges.
- j. Transmission of Electricity within the SEZ area.
- k. Power procurement Options.
- l. Energy Conservation.
- m. Condition of Power Supply to SEZ Consumers
- n. Duty for Sale of Power from SEZ to DTA
- o. Incentive Schemes for TOD Tariff
- p. Maintenance of separate accounts for Distribution Business

- q. Recovery Procedure for Initial & Incremental Cost for T&D system from consumers:
- r. Consumer Protection & Grievance redressal mechanism.
- s. Any other (with reference to existing MERC General Condition for Distribution License, MERC Standards of performance for Distribution Licensee, MERC (Supply Code and other condition of Licensee, etc)

Section V: SEZ Development

Development of SEZ Infrastructure

- a. Power Procurement Options
 - I. MoU
 - II. Own Generation (Captive)
 - III. Competitive Bidding
 - IV. Purchase from Incumbent Licensee
- b. Development of Options for Power Distribution in terms of
 - V. Owned Distribution network
 - VI. Distribution through existing licensee (s) in the area:
 - VII. Distribution through sub-licensee (s):
- c. Preliminary project configuration, across:
 - I. Benchmarking- identification of power infrastructure design standards, service levels and provisioning models across other SEZs and industrial areas:
 - II. Normative infrastructure configuration for power generation (fuel type, module size, etc), grid linkages, Power distribution (underground Vs Overhead cabling, etc):
 - III. Development cost estimates and phasing plan

Section VI: Other Areas

Study of SEZ developments in key states

- a. Functional SEZs as distribution licensee
- b. Regulatory Developments/ Initiatives by SERCs

Open Access in SEZ Areas:

- a. Right of Open Access to SEZ consumers
- b. OA charges in SEZ Areas

Suggestion on Norms

- a. Construction Cost;
- b. Infrastructure Cost;
- c. Operational Cost;

(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 consultants with good experience.
- 3.3. Team Leader /Project Director: The Consultancy Firm or Institution shall nominate Team Leader/Project Director who should have sufficient qualification and experience.
- 3.4. 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.
- 3.5. Contract Period: Contract would be for a period of 1 year or till the completion of assignment whichever is earlier.
- 3.6. 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, superscribed "Offer for consulting services for assistance to the Commission in the matter of specifying Specific Conditions of Licensee for the SEZ Area in the petition of Maharashtra Airport Development Company Ltd (MADC) for taking on Record the Distribution Licensee status of MADC for Multi Product Special Economic Zone at Mihan, Nagpur" should be submitted so as to reach the office of the Commission on or before **16:00 hrs on**

26.08.2011 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.

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 – 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 assistance to the Commission in the matter of specifying Specific Conditions of Licensee for the SEZ Area in the petition of Maharashtra Airport Development Company Ltd (MADC) for taking on Record the Distribution Licensee status of MADC for Multi Product Special Economic Zone at Mihan, Nagpur” (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 in the matter of specifying Specific Conditions of Licensee for the SEZ Area in the petition of Maharashtra Airport Development Company Ltd (MADC) for taking on Record the Distribution Licensee status of MADC for Multi Product Special Economic Zone at Mihan, Nagpur” (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 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.

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 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.

5.2. **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.

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 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.

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 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.

6.2. Pre-Bid Discussion: For the benefit of the bidding firms, a pre-bid session will be held at **11:30 hrs on 17.08.2011** at the Commission's Office.

- 6.3. Opening of Technical and Financial offers: The Financial Offers will be opened at **16:00 hrs on 01.09.2011 (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.

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

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.

7.2.2. 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.

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 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.

8.3. 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.

8.4. The Demand Drafts for Earnest money Deposit (Rs.50,000/-) shall be attached with the Technical offer.

B. Financial Offer

8.5. 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.

8.6. 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.

8.7. 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

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 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 role of the consultants in the tasks to be taken up. (Annexure I-B) | 50% |

- 9.2. 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 9.1 respectively. The financial offers of the qualified bidders only will be opened for further evaluation.
- 9.3. 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.
- 9.4. 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

- 9.5. 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
- 9.6. 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 assistance to the Commission in the matter of specifying Specific Conditions of Licensee for the SEZ Area in the petition of Maharashtra Airport Development Company Ltd (MADC) for taking on Record the Distribution Licensee status of MADC for Multi Product Special Economic Zone at Mihan, Nagpur” 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 in the matter of “Specific Conditions of Licensee for the SEZ Area 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 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 - - 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)

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 "Specific Conditions of Licensee for the SEZ Area 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 theday of....., 20....., for acceptance of your claims in the matter.

Signature and Seal of Guarantors

Date -----

Address -----