

Maharashtra Electricity Regulatory Commission (MERC)

Request for Proposal / Terms of Reference / Notice Inviting Tender for empanelment of Technical Consultants

Sr. No.	Particulars	Details
1	Cost of Tender Document / Tender Fees	Rs. 10,000/- (Non refundable) To be submitted online at https://mahatenders.gov.in/nicgep/app
2	Mode of Bid Submission	Online through e-Tendering system and portal at “ http://mahatenders.gov.in ”
3	Tendering Authority	Maharashtra Electricity Regulatory Commission 13th Floor, Centre-1, World Trade Centre, CuffeParade, Mumbai-400005
4	Last Date of Submission of Queries	23 rd Nov 2023 up to 1600 Hours Pre-Bid Queries can be submitted at ‘ tenderqueries@merc.gov.in ’
5	Date and Time of Pre- Bid Meeting	24 th Nov 2023 at 1400 Hours (will be conducted through video conference)*
6	Last Date of Submission of Bids	6 th Dec 2023 up to 1600 Hours
7	Date and Time of Opening of Bids	7 th Dec. 2023 at 1600 Hours
8	Earnest Money Deposit (EMD)	Rs. 50,000/- (Rs. Fifty Thousand only) To be submitted online at https://mahatenders.gov.in/nicgep/app

NOTE:*MERC will host a Pre-Bid Meeting on **24rd Nov 2023** at 14.00 Hrs in respect of above Tender through **video conferencing** on ‘Microsoft Teams’ instead of physical meeting.

The authorised representative of the bidders may attend the pre-bid meeting through a link which will be provided by MERC IT Cell. The authorised representative who wish to attend the pre-bid meeting should send a request along with authorisation letter mentioning his email Id, on MERC email ID tenderqueries@merc.gov.in on or before **23rd Nov 2023** at 12.00 Hrs.

If prospective bidders face any difficulty in joining video conference, they can contact MERC IT Cell on following numbers:

Mr. Nilesh Davle - 8928071522

Invitation for Bids (IFB) and Notice Inviting Tenders (NIT)

- Maharashtra Electricity Regulatory Commission invites electronic Bid Proposals from reputed, competent and professional firms that meet the minimum eligible criteria as specified in this Request for Proposal (RFP) for empanelment of technical consultants.
- The complete RFP document has been published on the Government of Maharashtra's e-Tendering website <http://mahatenders.gov.in>.
- Bidders who wish to participate in the bidding process must register on the website <http://mahatenders.gov.in>, unless already registered.
- To participate in the online Tendering process, the bidders must procure Digital Signature Certificates (DSC: class II or class III) in accordance with the IT Act 2000. Bidders who already have a valid DSC need not procure a new DSC.
- The bidding process would follow two step bidding mechanism for separate technical and commercial proposals.
- The bidder shall submit the offer in electronic formats both for technical and commercial proposals. EMD and Tender Fees should be submitted online, as prescribed in NIT, along with the technical Bid.
- MERC will not be responsible for any delay in online submission due to any reason. For this, bidders are requested to upload the complete bid well within time so as to avoid any unforeseen problems.
- No contractual obligation whatsoever shall arise from the RFP/ bidding process unless and until a formal Contract is signed and executed between the Tendering Authority and the successful bidder.
- MERC disclaims any factual/or other errors in this document (the onus is purely on the individual bidders to verify such information) and the information provided herein is intended only to help the bidders to prepare a logical bid proposal.

Detailed Expression of Interest Document

Expression of Interest (EOI) / NIT/ RFP for Empanelment of Firms/Institutions for 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). Under the Electricity Act, 2003, the **MERC** undertakes various functions including determination of tariff for generation, transmission, wheeling and bulk or retail supply of electricity, regulation of electricity purchase and procurement process of Distribution Licensees, issue of Electricity Transmission, Distribution and Trading Licenses, promotion of cogeneration and generation of electricity from renewable sources of energy, etc.

MERC intends to empanel technically qualified and professionally managed Consultancy Firms/Institutions to assist the Commission in respect of any or all of the Technical tasks listed under Section 2 of this document.

2. List of Tasks proposed to be assigned:

- A. List of the tasks proposed to be assigned to the Consultancy Firms/Institutions is as under:

PART-I: Tariff Determination

1. Multi-Year Tariff (MYT) determination of Generating Companies.
2. Multi-Year Tariff (MYT) determination of Transmission Licensees.
3. Approval of Fees and Charges of the Maharashtra State Load Despatch Centre.
4. Intra State Transmission Charges Determination.
5. Multi-Year Tariff (MYT) determination of Distribution Licensees.
6. Mid-Term Review, determination of Annual Revenue Requirement (ARR) and Tariff determination process for every year in respect of all Utilities within the over-arching principles laid down in the MYT Regime, if required.
7. Determination of Capital Cost and Tariff for the New Thermal Generating Stations and New Transmission Licensee.
8. Determination of Project Specific Tariff for Renewable Energy Power Plants (Municipal Solid Waste, etc).
9. Vetting of levy of Fuel Adjustment Charges (FAC) by Distribution Licensees.

10. Petitions with respect to adoption of Tariff under Section 63 for Generating Company or Transmission Licensee.

PART-II: Energy Efficiency, Electrical Vehicle, Energy Storage and Demand Side Management

1. Evaluation of Energy Storage, Electric Vehicle charging infrastructure, Demand Side Management/Energy Efficiency measures in respect of use of electricity.
2. Taking of Regulatory measures to facilitate / promote the implementation of the Guidelines/Programmes of the Bureau of Energy Efficiency in the State of Maharashtra.
3. Taking of Regulatory measures to facilitate / promote Energy Storage, Electric Vehicle charging infrastructure, etc.

PART-III: Cogeneration and Generation of electricity from renewable sources

1. Review of Tariff Regulations and Tariff determination for Wind Energy, Solar, Small Hydro, Municipal Solid Waste, Biomass based generation and Bagasse based Cogeneration units, etc.
2. Renewable Purchase Obligations (RPO) Regulations and their implementation.
3. Adoption of tariff discovered through competitive bidding process for RE Projects.
4. Adjudication of disputes between Licensee and RE Generators

PART-IV: Other functions under Electricity Act, 2003, and standards for quality service by licensees

1. Compliance Monitoring of directives issued by the Commission in various Orders, Tariff Orders inclusive of all interactions and feedback discussions regarding the same.
2. Review of existing DSM mechanism in the State for conventional generators/Distribution Licensees and the Wind and Solar generators vis-à-vis the mechanisms at regional level
3. Taking regulatory measures for improving the grid reliability and grid security such as ancillary services, spinning reserve, resource adequacy mechanism etc. in line with practices followed at regional level
4. Review of new issues and revisions of Scheduling and Despatch/Metering Codes and Grid Energy Accounting Procedures brought out by STU /SLDC and State level bodies.

5. Review of performance of Generation, Transmission and Distribution Licensees against standard criteria and setting of performance indices / norms.
6. Assisting in legal matters/Court Cases (APTEL/High Court/Supreme Court)

PART-V: Review & Amendment of Regulations

1. Evaluation of Capital Expenditure (Capex) schemes submitted by Generating Companies, Transmission and Distribution Licensees.
2. Physical verification of assets put to use as per directions issued by the Commission
3. Review and amendment of various existing Regulations and Guidelines notified by the Commission, if required.
4. Framing of New Regulations and Guidelines.

PART-VI: Issue of Licences for transmission, distribution and trading of electricity

1. Processing of application for new Transmission, Distribution and Trading Licence and amendment of licences.
2. Development / modification in framework of parallel distribution Licensing and resolving legal issues thereof
3. Framing and resolving of legal issues related to deemed Distribution Licence status and conditions of licence applicable to Licensees defined under Section 14 of EA 2003.

PART-VII: Adjudication of disputes between Generating Utilities/Transmission Licensees and Distribution Licensees and disputes related to Power Purchase Agreements (PPAs)/Transmission Services Agreements (TSAs)

1. Adjudication of disputes in respect of Petitions filed by Utilities/Transmission Licensees and Distribution Licensees regarding PPA's/TSAs.

PART-VIII: Capacity Building in Electricity Regulations

1. Assessment of training needs of employees (Technical / Legal / Finance) of MERC.
2. Training and capacity building for permanent employees of the MERC.

PART-IX: Any Other Specific Work not listed from I to VIII

1. The Commission at its discretion may allot any other Regulatory, Technical or Financial assignment which is not listed above.

B. The Commission may categorise the Empanelled Consultants under the following categories: -

Category A : Eligible to undertake all tasks

Category B :- Eligible to undertake Specific Task

3. Eligibility & Qualification requirement

The Consultancy firms / Institutions intending to bid for empanelment shall fulfill the following eligibility conditions and shall provide satisfactory evidence towards the following:

- a) Shall be Consultancy Firms or Institutions (including educational institution such as IIT, IIM, NABL, etc which has key personnel on its payroll, having proven records of accomplishment in the tasks enumerated in Section 2 of this document.
- b) The Consultancy Firm / Institutions shall be well acquainted with the Regulatory environment in the power sector and functioning of Licensees / generating companies, Central or State Regulatory Commission Authorities and have experience in dealing with such similar matters.
- c) The consultancy firm / institutions should have minimum average annual turnover of Rs. 7.5 crore for last three years.
- d) The consultants / resource persons proposed for appointment by the Consultancy Firm or Institution should be Graduates or Post Graduates in the relevant disciplines, and must possess expertise in particular field viz: Electricity Regulations, Power systems, Finance, Economics, Law, etc, commensurate with the nature of tasks to be handled by the Commission.
- e) The Consultancy Firm / Institutions should have adequate technical, financial and legal capability to undertake such tasks as per the terms of reference provided to them considering various steps to be undertaken from the inception to the completion of the task within the time frame prescribed by the Commission.
- f) The Consultancy Firm / Institutions shall have an appropriate team of individuals, with requisite skills to carry out the tasks within the time frame prescribed by the Commission. If any Consultancy Firm / Institution fails to have the requisite number of resources during the validity of the contract, a penalty may be imposed on the Consultancy Firms / Institution the quantum of which will be at the discretion of the Commission.
- g) As per Public Procurement Policy (PPP) for Micro & Small Enterprises (MSEs) Order, 2012 issued vide Gazette Notification dated 23.03.2012 by Ministry of Micro,

Small and Medium Enterprises of Govt. of India, MSEs must be registered as provided in said Gazette Notification to avail the benefits / preference available vide Public Procurement Policy MSEs Order, 2012. MSEs participating in the tender must submit valid & authorised copy of certificate of registration. In case of bidders submitting DIC registration certificate shall attach original notarised copy of the DIC certificate. The MSE's Bidder to note and ensure that nature of services mentioned in MSE's certificate must match with the nature of the services to be supplied as per Tender.

- h) The bidders shall furnish copies of certificate of registration/ agreement/articles of association, as the case may be, as consultancy service firm and PAN and GST registration.
- i) The initial contract period would be for a period of 3 years which is extendable for a further period of 2 years.
- j) The bidder may constitute a consortium or joint venture with another / other firms for submitting their proposals in response to this Notice. Where the Bid is submitted by a consortium of more than one entity, the written consent of each member of the consortium to participate in the Bid on the basis of joint and several liability to MERC for the performance of the services should be provided along with the Bid. If the Bidder considers that the Bidder firm does not have all the expertise for the assignment, the Bidder may propose a joint venture with other firms or entities, to enable a full range of expertise to be presented, during entire term of empanelment with MERC. While doing so, the names of the other consultants / parties / partners to be associated with the project and the details of work done by them should be specified and the written consent of such others to participate in the Bid be provided along with the Bid.

4. Submission of EOI Bid and Bidding Procedure

4.1. The Bid should be submitted through Government of Maharashtra e-portal “<https://mahatenders.gov.in>”.

4.2. The Bid shall comprise of two parts, i.e. (i) Technical Offer, and, (ii) Financial Offer, as follows:

- (I) The Technical Offer should be as per the format given at **Annexures – I, I - A, I - B, I - C, I - D and I - E.**
- (II) The Financial Offer should be as per the format given at **Annexure-II**

Basis of Bid Evaluation

(A) Technical Evaluation

4.3. The bidder in addition to furnishing complete information in the Forms appended with the documents shall furnish a document on the proposed approach, methodology & work plan for handling the tasks to be assigned.

4.4. The technical bid will carry maximum marks of 100, with Qualifying Minimum total score of 60 %. The Evaluation Committee nominated by the Commission shall evaluate the bids on the basis eligibility and qualification requirement as provided in Section 3 of this document. The response of the bidders will be evaluated as per following criteria:

Sr.No.	Particulars	Weightage
1	Experience of the bidder in Technical related assignments	30 %
2	Qualification and competency of the personnel presently on roll	70 %

4.4.1 Technical evaluation of individual resources will be as follows:

A. Each resource person will be given technical score based on qualification (50%) and experience (50%).

B. Minimum experience required for a resource person is 2 years.

C. Minimum qualifying marks is 60%.

D. There is no limit on the number of resources to be offered in the bid.

E. All the resources offered will be technically evaluated and grouped based on technical scores.

F. Each technically qualified resource person will carry 10 marks which will be counted against technical score for the bidding firm (max 70 mark- the bidders may offer higher number of resources for empanelment).

4.5. The Evaluation Committee will identify suitable bidders based on evaluation of the technical bid and if considered necessary, may also call for technical discussion /

presentations from the identified bidders. On the basis of the technical bids submitted and on the basis of discussions and presentations, if any, the bidders would be short listed. The financial bid of short listed / Technically Qualified bidders only will be opened for further evaluation.

(B) Financial Evaluation

- A. Based on the technical scores, the resources will be grouped into four groups (Group 1 - 91 % marks and above), (Group 2 - 81% to 90% marks), (Group 3 - 71% to 80% marks) and (Group 4 - 60% to 70%).
 - B. In each group the resource person with lowest financial quote will be given 100 marks as financial score and all other resource persons in said group will get prorata financial scores vis-a-vis the resource person with lowest financial quote. Thus each resource person will have his technical score and financial score which will be added to arrive at composite score of the individual resource person.
 - C. Based on the lowest/highest composite score or average composite score, negotiations may be held with other firms for reducing their financial quotes for their resource persons.
- 4.6.** MERC reserves the right to reject any/all the bids in part/or in full without assigning any reason.
- 4.7.** The validity of the Empanelment of Consultancy Firms / Institutions, shall be for a period of three years, which can be extended by a further period of two years.

5. Earnest Money Deposit and Tender Fees:

EMD and Tender Fees shall be submitted online through e-portal "<https://mahatenders.gov.in>".

- 6. Deviations:**The Bidder must ensure that Technical and the Financial Offers submitted by it 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 the covering note of the Bid. In absence of any such schedule, it shall be deemed that the Bid has

no deviation and the 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.

6.1 Any revision/correction in the Bid after opening of the Bids will not be allowed. Any such revision will render the Bid non-responsive and also result in forfeiture of Earnest Money Deposit.

6.2 The Bidder shall make in his Bids such disclosures as may be required to ascertain that it has no conflicting interest in undertaking the proposed assignment.

7. General Conditions of Contract:

7.1 **Security Deposit:** The successful Bidder shall furnish a Bank Guarantee (as per the Format attached as **Annexure-IV**) from a Nationalised Bank / Scheduled Bank, on a Stamp Paper of Rs.100/-, as Contract Security Deposit, for a value equal to Rs.5,00,000/- (Rupees FiveLakh 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, the amount of which will be returned by the Commission after satisfactory completion of work / expiry of empanelment agreement.

7.2 Terms of Payment:

Payment for the consultants would be made every month subject to the submission bills alongwith work sheet of work carried out by the consultants during the month.

7.3 **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. GST as applicable shall be payable extra, at the prevalent rates.

7.4 **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. However, if the

Commission directs approved resource to carry out any tour outside Mumbai in connection with any assignment, then the outstation travelling, lodging and boarding as admissible will be reimbursed as per the relevant Rules and Regulations of the Commission, on case to case basis.

7.5 The Consultants shall keep the Commission and all the concerned Utilities to be visited, indemnified from any damages, on any account. The consultant agrees to indemnify to the extent the damages / losses are finally determined by a competent court or arbitration.” And that "The indemnities set out in this agreement shall be subject to the following conditions: (i) the indemnified party as promptly as practicable informs the indemnifying party in writing of the claim or proceedings and provides all relevant evidence, documentary or otherwise; (ii) the indemnified party shall, at the cost of the indemnifying party, give the indemnifying party, all reasonable assistance in the defence of such claim including reasonable access to all relevant information, documentation, and personnel provided that the indemnified party may at its sole cost and expense reasonably participate through its attorneys or otherwise in such defence; If the indemnifying party does not assume full control over the defence of a claim as provided in this clause, the indemnified party may participate in such defence at its sole cost and expense and the indemnified party will have the right to defend the claim in such manner as it may deem appropriate, and the cost and expense of the indemnified party will be included in losses.

7.6 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 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.

7.7 **Conflict of interest:** The Consultant appointed by the Commission, shall in no case represent or give opinion or advice on the specific matters covered in

the ToR simultaneously or concurrently to any regulated entity of the Commission. The Consultants shall inform the Commission their existing assignments with the regulated entities which may have bearing on the regulatory advice covered by this ToR. The Consultants appointed by the Commission shall observe strict policies to prevent any conflict of interest situations by implementing suitable Chinese walls and ethical walls between teams working on different assignments

8. Bid Opening

8.1 The Technical Offers of the Bids will be scrutinised and the bidders who have qualified for further evaluation will be intimated online through e-portal

8.2 Pre-Bid Discussion: For the benefit of the bidding firms, a pre-bid session will be held as mentioned in NIT.

9. Award of appointment on Contract:

9.1 Contract Finalisation:

9.1.1 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.

9.1.2 Within seven days of receipt of the LOI, the successful bidder(s) shall enter into a Contract with the Commission in the prescribed format (**Annexure-III**) and by submitting the Contract Security Deposit in form of Bank Guarantee in the prescribed format (**Annexure-IV**).

9.1.3 If the successful Bidder fails to enter into the said Contract, within 21 days of issue of LoI, the Earnest Money 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.

9.1.4 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 unopened 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.

9.2 Operation of the Contract:

- (i) After entering into a Contract for work, as and when needed, the consultants would be employed on specific tasks. The required mandays and time lines would be finalized at the time of assignment of specific task. The Commission can do so by inviting limited quotes from empanelled consultancy firms and may allot the task on the basis of lowest financial offer or on the basis of Quality and Cost Based Selection (QCBS) method or in compelling circumstances assign specific task to specific consultancy firms by recording reasons for the same.
- (ii) The required mandays and time lines shall be finalised at the time of assigning the task. All such decisions would be taken after discussing the matter with the Project Director.
- (iii) The Consultants named in the proposal shall be actually available for carrying out the work.
- (iv) The bidder will be allowed for substitution of resource person due to incapacitation of key professional staff for reasons of health, leave or resignation from services. The bidder can also request for addition or augmentation of resources. The substitution and addition of resources will be evaluated based on evaluation criteria followed at the time of original bidding. Rate for the substitution and additional resources will be fixed on the basis of their qualification, experience and technical score and rates will be decided on pro-rata basis in consistent with original resources approved for the bidder. Prior approval is necessary for any substitution or addition of resource persons.
- (v) The Commission shall not be 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.

(vi) **Internal Limited Bidding process among empanelled consultants** : Following process will be adopted for internal bidding process among empanelled consultants.

- a. Based on the work to be allocated, it will be decided to seek quote and presentation from the empanelled consultants. .
- b. Interested consultancy Firms needs to respond with detailed PPT explaining their understanding of the work and their proposed approach with milestone to complete the assignment. Firms needs to propose a team and man-days of each resources to undertake such assignment.
- c. QCBC method will be adopted while selecting final Consultancy firms wherein firms will be allotted marks based on the following:

i. Technical (60 marks) :

- Expertise of Resources Proposed (Qualification & Experience) – 20 Marks
- Identical assignment undertaken by the proposed resource – 15 Marks
- PPT : understanding and proposed methodology – 25 Marks

Minimum 45 marks are mandatory to qualify technical scrutiny. Only Technically qualified bidders will be considered for next process.

ii. Financial (40 marks)

- Lowest total cost of project amongst technically qualified bidders will get 40 marks.
- All other technically qualified bidders will get proportionate marks with reference to their total cost vis-à-vis lowest cost.

Firms getting highest composite score (Technical + Financial) will be selected as successful bidder

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

9.3.1 The Consultant is unable to address the assigned works.

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

9.3.3 The Consultant fails in timely achievement of the milestones as decided by the Commission.

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

- 9.3.5 The Consultant becomes insolvent.
- 9.3.6 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.
- 9.3.7 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.
- 9.3.8 The consultant may terminate the agreement by giving at least 30 days notice. The termination may be accepted on completion of ongoing assignments or as decided on the basis of nature of work to be completed.

9.4 Liquidated damages :

- 9.4.1 For delay : If the Consultant fails to complete the allotted work within the prescribed time period, the Commission may levy liquidated damages at the rate of 10 % of the cost of assignment or higher, as it may deem fit.
- 9.4.2 For errors / mistakes : If the Consultant commits any errors / mistakes in the allotted work, the Commission may levy liquidated damages at the rate of 10 % of the cost of assignment or higher, as it may deem fit.
- 9.4.3 The liquidated damages are restricted to 25% of the cost of assignment

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

Secretary, MERC

Annexure – I

(FORMAT)

Technical Offer

Date: _____

FROM:

TO:

The Secretary,
MERC, Mumbai

Subject: “Offer for consulting services for assistance to the Commission to facilitate technical related 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 related 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-

—.

This bid is submitted for all the tasks mentioned in para 2 of the bidding document /

This bid is submitted for following specific tasks mentioned in para 2 of the bidding document as follows: _____ (Please mention specific tasks contained in para 2 of bidding document).

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

(Note: * and # to be appropriately modified by the bidder.)

The Earnest money deposit of Rs.50,000 (Rupees Fifty thousand only) is submitted online.

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: The 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 (attach document)
6. Affiliation with national and international professional/financial bodies.
7. Annual Turnover (last three years) (attach certified document in support)
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

(NO PRESCRIBED FORMAT)
(Not more than 5 pages)

Concept Note on the Understanding of the Tasks Envisaged
(Exhaustive – not pertaining to each task given in the scope of work)

Annexure – I-C

Qualifications, Experience and Competence of the Consultants/ Resource Persons for the Assignment

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 dates, 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 held in the Bidding Firm	Qualification from Graduation onwards	Total years of experience since completion of graduation	Number of years in bidding firm
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)

Annexure - II

(FORMAT) FINANCIAL OFFER

Date:

FROM:

TO:
The Secretary,
MERC, Mumbai

Subject:

Sir,

This has reference to our Technical Offer under our reference no. _____ dated _____, for providing assistance to the Commission to facilitate various tasks enumerated under Section 2 of the Expression of Interest works as per of Bidding Document’

I/We _____ (Firm), hereby furnish our Financial Offer, as follows;

Sr. No	Name of the resource person as per Annexure I – D	Monthly Fee (considering 22 mandays a month)
1		
2		
3		
4		
5		

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

Yours faithfully,

Signature _____ Full Name _____

Designation _____ Address _____

Annexure – III

Format of Agreement

AGREEMENT OF CONSULTANCY CONTRACT HAS BEEN MADE BETWEEN **MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**, (HEREIN AFTER REFERED TO AS THE COMMISSION) MAHARASHTRA STATE, 13TH FLOOR, CENTRE-1, WORLD TRADE CENTRE, CUFFE PARADE, COLABA, MUMBAI-40005 AND M/S. (HEREIN AFTER REFFERED TO AS THE CONSULTANT) ON _____(date) FOR EMPANELMENT OF CONSULTANTS FOR ASSISTING IN VARIOUS TECHNICAL TASKS FOR PERIOD OF 3 YEARS FROM TO

1. INTRODUCTION

Maharashtra Electricity Regulatory Commission (MERC) was established on August 5, 1999 under the Electricity Regulatory Commissions 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 Licences for Transmission, Distribution, and Trading of electricity and promote generation /co-generation of electricity from renewable sources of energy.

2. APPOINTMENT:

As per the Terms of reference of bid documents the consultant appointed would be required to work for MERC as and when the need would arise. The consultants appointed however have option to work partly or fully from their own locations. The payment would be on the basis of actual working days in a month, subject to a maximum of the approved monthly fee of the consultant/ resource persons. 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 PROJECT DIRECTOR:

Consultant Shri. would work as “Project Director” as per the ToR of Bid documents.

4 SCOPE OF WORK

A. List of the tasks proposed to be assigned to the Consultancy Firms / Institutions is as under:

PART-I: Tariff Determination

1. Multi-Year Tariff (MYT) determination of Generating Companies.
2. Multi-Year Tariff (MYT) determination of Transmission Licensees.
3. Approval of Fees and Charges of the Maharashtra State Load Despatch Centre.
4. Intra State Transmission Charges Determination.
5. Multi-Year Tariff (MYT) determination of Distribution Licensees.
6. Mid-Term Review, determination of Annual Revenue Requirement (ARR) and Tariff determination process for every year in respect of all Utilities within the over-arching principles laid down in the MYT Regime, if required.
7. Determination of Capital Cost and Tariff for the New Thermal Generating Stations and New Transmission Licensee.
8. Determination of Project Specific Tariff for Renewable Energy Power Plants (Municipal Solid Waste, etc).
9. Vetting of levy of Fuel Adjustment Charges (FAC) by Distribution Licensees.
10. Petitions with respect to adoption of Tariff under Section 63 for Generating Company or Transmission Licensee.

PART-II: Energy Efficiency, Electrical Vehicle, Energy Storage and Demand Side Management

1. Evaluation of Energy Storage, Electric Vehicle charging infrastructure, Demand Side Management/Energy Efficiency measures in respect of use of electricity.
2. Taking of Regulatory measures to facilitate / promote the implementation of the Guidelines/Programmes of the Bureau of Energy Efficiency in the State of Maharashtra.
3. Taking of Regulatory measures to facilitate / promote Energy Storage, Electric Vehicle charging infrastructure, etc.

PART-III: Cogeneration and Generation of electricity from renewable sources

1. Review of Tariff Regulations and Tariff determination for Wind Energy, Solar, Small Hydro, Municipal Solid Waste, Biomass based generation and Bagasse based Cogeneration units, etc.

2. Renewable Purchase Obligations (RPO) Regulations and their implementation.
3. Adoption of tariff discovered through competitive bidding process for RE Projects.
4. Adjudication of disputes between Licensee and RE Generators

PART-IV: Other functions under Electricity Act, 2003, and standards for quality service by licencees

1. Compliance Monitoring of directives issued by the Commission in various Orders, Tariff Orders inclusive of all interactions and feedback discussions regarding the same.
2. Review of existing DSM mechanism in the State for conventional generators/Distribution Licensees and the Wind and Solar generators vis-à-vis the mechanisms at regional level
3. Taking regulatory measures for improving the grid reliability and grid security such as ancillary services, spinning reserve, resource adequacy mechanism etc. in line with practices followed at regional level
4. Review of new issues and revisions of Scheduling and Despatch/Metering Codes and Grid Energy Accounting Procedures brought out by STU /SLDC and State level bodies.
5. Review of performance of Generation, Transmission and Distribution Licensees against standard criteria and setting of performance indices / norms.
6. Assisting in legal matters/Court Cases (APTEL/High Court/Supreme Court)

PART-V: Review & Amendment of Regulations

1. Evaluation of Capital Expenditure (Capex) schemes submitted by Generating Companies, Transmission and Distribution Licensees.
2. Physical verification of assets put to use as per directions issued by the Commission
3. Review and amendment of various existing Regulations and Guidelines notified by the Commission, if required.
4. Framing of New Regulations and Guidelines.

PART-VI: Issue of Licences for transmission, distribution and trading of electricity

1. Processing of application for new Transmission, Distribution and Trading Licence and amendment of licences.
2. Development / modification in framework of parallel distribution Licensing and resolving legal issues thereof

3. Framing and resolving of legal issues related to deemed Distribution Licence status and conditions of licence applicable to Licensees defined under Section 14 of EA 2003.

PART-VII: Adjudication of disputes between Generating Utilities/Transmission Licensees and Distribution Licensees and disputes related to Power Purchase Agreements (PPAs)/Transmission Services Agreements

1. Adjudication of disputes in respect of Petitions filed by **Generating Utilities/Transmission Licensees and Distribution Licensees** regarding PPA's/TSAs.

PART-VIII: Capacity Building in Electricity Regulations

1. Assessment of training needs of employees (Technical / Legal / Finance) of MERC.
2. Training and capacity building for permanent employees of the MERC.

PART-IX: Any Other Specific Work not listed from I to VIII

The Commission at its discretion may allot any other Regulatory, Technical or Financial assignment which is not listed above.

B. Categorisation of Empanelled Consultants and the task that can be allotted: :-

Category A : Eligible to undertake all tasks

Category B :- Eligible to undertake Specific Task

5 DELIVERABLES :

- i. Evaluation and analysis of proposal, identification of further data or clarifications required, their scrutiny and, if necessary, preparation of a proposed dispensation for putting to the public (with English summary) along with Petition and other relevant documents.
- ii. Record of Proceedings / Minutes of Technical Validation sessions and Public Hearing Suggestions/Objections.
- iii. Issue-wise categorization and comments on inputs received in the public process, the Petition etc.
- iv. Presentations on the Tariff Model design being adopted and determination of tariff for various categories of consumers.

- v. List and classification of comments/objections received from discussions/ hearings and during the public process, including opinion on each issue so as to finalize the view of the Commission on each such issue.
- vi. Draft Order
- vii. Final modified draft Order.
- viii. Record of Proceedings and draft Orders in respect of Review Petition, if any.
- ix. The draft commendation / tariff determination report (Detailed Order) including Executive Summary, financial models (Speaking Order for early release) shall be submitted in hard copies, as well as soft copy in electronic format.
- x. Draft press note (in English) giving salient features of the Tariff Order and Tariff Impact/Comparison
- xi. Draft Order in Review (if any), and clarifications if required
- xii. Vetting of Tariff Booklets.
- xiii. The progress of assignment will be monitored on continuous basis and acceptance of deliverables will be communicated at various stages, within 30 days of receipt of deliverables. Further, in case of some changes or suggestions in interim deliverables, the final deliverables provided after incorporating the changes and suggestions, will be accepted within 30 days of receipt of final deliverables.

6 ASSIGNMENT DURATION:

This Contract is valid for a period of 3 years from the date of the execution of this Contract. The validity of this Contract shall be extendable for a further period of 2 years on mutually agreed fee and terms & conditions.

7 ACCOMMODATION:

No residential accommodation will be provided by the Commission. The Commission shall however provide office space and other facilities for working of Consultants in MERC Office.

8 PAN / GST REGISTRATION:

The consultancy firm M/sshould furnish copy of certificate of registration as consultancy service firm and PAN and GST registration.

9 SECURITY DEPOSIT:

M/s.....shall furnish a Bank Guarantee (as per Annexure-IV) from a Nationalised / 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. The Contract Security Deposit shall be payable within 7 days of signing of the Contract.

10 APPOINTMENT OF CONSULTANT AND PROFESSIONAL FEE:

The Commission appoints the following resource persons / Consultants under this agreement and professional fees payable is tabulated below:

Sl. No.	Name of the resource person	Monthly Fee (considering 22 mandays a month) (in Rupees)
1		
2		
3		
4		
5		

The above fee is inclusive of all costs (excluding GST) for carrying out the work as specified in the scope of work. The GST as applicable shall be paid extra by the Commission alongwith monthly fee.

The Consultant M/s _____ (name of firm) shall be responsible for payment of Government Dues as per the applicable Act/Rules i.e. Provident Fund, Profession Tax, ESIS, Compensation, etc in respect of deployed consultants/ resource person in Commission's office.

11 TERMS OF PAYMENT:

The payment would be made to the consultancy firm/institution. Payment for the consultants would be made every month subject to the submission of bills alongwith works sheet of work carried out by the consultants during the month.

12 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. GST as applicable shall be payable extra, at the prevalent rates.

13 NO EXTRA CHARGES:

The fee of the Consultant M/s (name of firm) as mentioned in above para, 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.

However, if the Commission directs approved resource to carry out any tour outside Mumbai in connection with any assignment, then the outstation travelling, lodging and boarding as admissible will be reimbursed as per the relevant Rules and Regulations of the Commission, on case to case basis.

The Consultants shall keep the Commission and all the concerned Utilities to be visited, indemnified from any damages, on any account. The consultant agrees to indemnify to the extent the damages / losses are finally determined by a competent court or arbitration.” And that "The indemnities set out in this agreement shall be subject to the following conditions: (i) the indemnified party as promptly as practicable informs the indemnifying party in writing of the claim or proceedings and provides all relevant evidence, documentary or otherwise; (ii) the indemnified party shall, at the cost of the indemnifying party, give the indemnifying party, all reasonable assistance in the defence of such claim including reasonable access to all relevant information, documentation, and personnel provided that the indemnified party may at its sole cost and expense reasonably participate through its attorneys or otherwise in such defence; If the indemnifying party does not assume full control over the defence of a claim as provided in this clause, the indemnified party may participate in such defence at its sole cost and expense and the indemnified party will have the right to defend the claim in such manner as it may deem appropriate, and the cost and expense of the indemnified party will be included in losses.

14 CONFIDENTIALITY OF DATA AND DOCUMENTS:

MERC would fully own all final deliverables and output produced for the assignment. The Consultant M/s..... (name of firm) would however continue to own any of its pre-existing proprietary knowledge and intellectual property content relied by M/s.....(name of firm) and brought in by it for this assignment and or incorporated in the deliverables and outputs. No one shall 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 all final deliverables and output produced for this assignment to the Commission before the expiry of the contract, and before the final payment is released by the Commission. The electronic data and back-up on servers / other media and working papers as a part of internal process of M/s..... (name of firm) shall continue to remain property of M/s. (name of firm).

15 CONFLICT OF INTEREST:

The Consultant appointed by the Commission, shall in no case represent or give opinion or advice on the specific matters covered in the ToR simultaneously or concurrently to any regulated entity of the Commission. The Consultants shall inform the Commission their existing assignments with the regulated entities which may have bearing on the regulatory advice covered by this ToR. In this regard, M/s(name of firm) shall observe strict policies to prevent any conflict of interest situations by implementing suitable Chinese walls and ethical walls between teams working on different assignments.

16 OPERATION OF THE CONTRACT:

- (i) After entering into a Contract for work, as and when needed, the consultants would be employed on specific tasks. The required mandays and time lines would be finalized at the time of assignment of specific task. The Commission can do so by inviting limited quotes from empanelled consultancy firms and may allot the task on the basis of lowest financial offer or on the basis of Quality and Cost Based Selection (QCBS) method or in compelling circumstances assign specific task to specific consultancy firms by recording reasons for the same.
- (ii) The required mandays and time lines shall be finalised at the time of assigning the task. All such decisions would be taken after discussing the matter with the Project Director.
- (iii) The Consultants named in the proposal shall be actually available for carrying out the work.
- (iv) The bidder will be allowed for substitution of resource person due to incapacitation of key professional staff for reasons of health, leave or resignation from services. The bidder can also request for addition or augmentation of resources. The substitution and addition of resources will be evaluated based on evaluation criteria followed at the time of original bidding. Rate for the substitution and additional resources will be fixed on the basis of their qualification, experience and technical score and rates will be decided on pro-rata basis in consistent with original resources approved for the bidder. Prior approval is necessary for any substitution or addition of resource persons.
- (v) The Commission shall not be 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.

(vi) **Internal Limited Bidding process among empanelled consultants** : Following process will be adopted for internal bidding process among empanelled consultants.

- a. Based on the work to be allocated, it will be decided to seek quote and presentation from Category A or B or both category of consultants as given in para 4.B.
- b. Interested consultancy Firms needs to respond with detailed PPT explaining their understanding of the work and their proposed approach with milestone to complete the assignment. Firms needs to propose a team and man-days of each resources to undertake such assignment.
- c. QCBC method will be adopted while selecting final Consultancy firms wherein firms will be allotted marks based on the following:
 - i. Technical (60 marks) :
 - Expertise of Resources Proposed (Qualification & Experience) – 20 Marks
 - Identical assignment undertaken by the proposed resource – 15 Marks
 - PPT : understanding and proposed methodology – 25 Marks

Minimum 45 marks are mandatory to qualify technical scrutiny. Only Technically qualified bidders will be considered for next process.

ii. Financial (40 marks)

- Lowest total cost of project amongst technically qualified bidders will get 40 marks.
- All other technically qualified bidders will get proportionate marks with reference to their total cost vis-à-vis lowest cost.

Firms getting highest composite score (Technical + Financial) will be selected as successful bidder

17 Liquidated damages:

- i. For delay : If the Consultant fails to complete the allotted work within the prescribed time period, the Commission may levy liquidated damages at the rate of 10 % of the cost of assignment or higher, as it may deem fit.

- ii. For errors / mistakes : If the Consultant commits any errors / mistakes in the allotted work, the Commission may levy liquidated damages at the rate of 10 % of the cost of assignment or higher, as it may deem fit.
- iii. The liquidated damages are restricted to 25% of the cost of assignment

18 TERMINATION OF CONTRACT:

The Commission may terminate a contract to which these Terms apply if:

- (i) The Consultant is unable to address the assigned works,
- (ii) Quality of the assigned works is not to the satisfaction of the Commission
- (iii) The Consultant fails in timely achievement of the milestones as finally decided by the Commission.
- (iv) 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
- (v) Team members of the Consultant are found lacking in honesty and integrity;
- (vi) The Consultant becomes insolvent.
- (vii) 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.
- (viii) The termination of this contract 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. In the event of such termination of Contract, Security Deposit shall stand forfeited.
- (ix) **Governing law:** The contract shall be governed by and construed in accordance with the laws of the Republic of India.
- (x) The consultant may terminate the agreement by giving at least 30 days notice. The termination may be accepted on completion of ongoing assignments or as decided on the basis of nature of work to be completed.

19 ARBITRATION:-

All disputes, differences, claims and demands arising under the contract shall be referred to the arbitration of a sole arbitrator, under the Arbitration and Conciliation Act, 1996, to be appointed by Commission only. All arbitrations shall be held only in Mumbai.

Before going to arbitrator, time of at least 45 days should be considered for resolving the conflict amicably. And that the Arbitrator will be appointed with consent of both parties.

20 LEGAL JURISDICTION:-

All legal disputes are subject to the jurisdiction of Mumbai Courts only.

21 OTHER TERMS AND CONDITIONS

All other terms and conditions as mentioned in tender documents and the terms and conditions mentioned in Maharashtra Electricity Regulatory Commission (Terms and Conditions of Appointment of Consultants) Regulations, 2004, as amended from time to time, shall be applicable.

SIGNATURE OF M/S..... :

SIGNATURE OF MERC AUTHORITY :

Annexure – IV
(FORMAT)

CONTRACT SECURITY DEPOSIT

To
The Secretary,
Maharashtra Electricity Regulatory Commission
13th Floor, Centre-1,
World Trade Centre,
Cuffe Parade,
Mumbai 400 005

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

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

AND WHEREAS we have agreed to give guarantee for the performance obligations of the firm.

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 Rs. 5,00,000/- (Rupees Five Lakh Only) and we undertake to pay you, upon your first written demand, declaring the firm to be in default of the contract and without cavil or argument, any sums within the limit of Rs. 5,00,000/- 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 -----