

Appointment of Consultants Regulations, 2000

* Notified in the U.P. Official Gazette on 16th March 2000

In exercise of powers conferred on it by sub-section (4) of Section 8, sub-section (4) of Section 9, and sub-section (1) of Section 52 of the Uttar Pradesh Electricity Reforms Act, 1999 (UP Act No. 24 of 1999), and all powers enabling it in that behalf, the Uttar Pradesh Electricity Regulatory Commission hereby makes the following Regulations, namely:

1. Short title and commencement

(i) These Regulations may be called the Uttar Pradesh Electricity Regulatory Commission (Appointment of Consultants) Regulations, 2000.

(ii) These shall come into force on the date of their publication in the Official Gazette.

2. Definitions

(1) In these Regulations unless the context otherwise requires: -

(a) "Act" means, Uttar Pradesh Electricity Reforms Act, 1999

(b) "Commission" means the Uttar Pradesh Electricity Regulatory Commission constituted under Section 3(1)(a) of the Act.

(c) "Consultant" includes any individual, firm, body or association or persons, not in the employment of the Commission, who or which possesses or has access to any specialized knowledge, experience or skill.

(d) "Officer" means an officer of the Commission.

(e) "Secretary" means the Secretary of the Commission.

(2) Words or expressions occurring in these Regulations and not defined herein but defined in the Act shall bear the same meaning as in the Act or in the Uttar Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2000 shall bear the same meaning as in the Act or in the said Conduct of Business Regulations.

3. Scope of Work

(1) The Commission may from time to time engage Consultants for executing specialized tasks for which skills are either not available within the staff of the Commission or where the nature of jobs is specific and time-bound or where the Commission considers it to be conducive to its working to appoint.

(2) The terms and conditions of engagement of Consultants will be drawn up in each case and agreed to between the Consultant and the Commission prior to award of consultancy.

(3) The terms of engagement would specify the exact nature of the tasks to be undertaken by the Consultant, the time allowed for completion of each task and the specific outputs that are to be provided by the Consultant in relation to each task.

4. Period of engagement

Consultants will be engaged for the minimum period required. In no case will the maximum period of engagement exceed two years.

5. Categorization of Consultants

(1) Individual consultants will be categorised into three groups based on their expertise and experience, as per the table given below: -

Category Minimum Experience Advisers 15 years

Senior Consultants 10 years

Consultants 3 years

(2) The Commission may in appropriate case, for reasons to be recorded in writing, relax the minimum experience, keeping in view the overall expertise of the person being considered for engagement as Consultant.

(3) The Commission may prescribe minimum educational qualifications, depending on the nature of the work, and the relevant professional qualifications related to subject area of the consultancy.

6. Fees & Other Charges

(1) Except where the Commission decides otherwise for reasons to be recorded the Consultants will be appointed generally on a consolidated fee at the rates mentioned in Schedule 'A'. The Commission may from time to time revise the amounts specified in the Schedule, by an order to be made by the Commission.

(2) No other payments apart from the consolidated fee will be paid except an additional amount to cover contingencies, which will be capped at an amount of 10% of the fees payable.

(3) Where the Consultants have to incur expenditure on travel and stay at a place away from the normal place of residence, the Commission will reimburse DA by allowing an additional expenditure as specified in the Schedule. The number of days for which this will be payable will be determined as appropriate in each case. The cost of travel will be separately reimbursed by an appropriate class of travel, which will never be lower than that permitted for a Grade A gazetted officer of the Government of India.

7. Appointment of Consultants

(1) Terms of Reference (TOR) for the appointment of Consultants for specific tasks will be prepared by an officer of the Commission and will be submitted to the Secretary for seeking the approval of the Commission.

(2) The Commission may decide either to invite combined technical and financial proposals or separate technical and financial proposals.

(3) The Commission will prescribe the minimum qualifying mark for the technical bid

(4) After approval of the TOR by the Commission, the Secretary will cause the Request for Proposals to be issued, inviting proposals from interested consultants giving publicity as may be appropriate in each case. It will not, however, be necessary to go through the process of issue of public advertisement, particularly where the value of the fee is below Rs.5 lakh in each case.

8. Request for proposals

The request for proposals shall include the following: -

(a) A letter of invitation stating the intention of the Commission to enter into a contract for provision of a consulting services, the source of funds, the details of the plan and the date, time and address for submission of proposals.

(b) Information to Consultants shall contain all necessary information that will help Consultants prepare responsive proposals by providing information on the evaluation process and by indicating the evaluation criteria and factors and their respective weights and the minimum pre-qualification score.

(c) Terms of reference shall be prepared to specify the objectives, goals and scope of the assignment and provide background information including a list of existing relevant studies and basic data to facilitate the Consultants preparation of their proposals. If transfer of knowledge, training is an objective, the TOR will detail the number of staff to be trained. TOR shall list the services and surveys necessary to carry out the assignment and the expected outputs (for example reports, data, surveys etc.) linked to each task in the TOR.

(d) Draft contract as may be prescribed.

9. Receipt of proposals

(1) The Commission will prescribe the time within which the Consultants shall prepare and submit their proposals.

(2) The Commission may decide to extend the deadline for submission of proposals, as deemed appropriate by

it.

(3) No amendments to the technical or financial proposals shall be accepted after the deadline except before a negotiating committee appointed by the Commission. The proposals shall be submitted in sealed cover. Where the Commission prescribes that separate technical and financial proposals be submitted, they shall be submitted in separate sealed envelopes.

10. Evaluation of proposals

The proposals will be evaluated both on the basis of quality as well as cost. Where the Commission decides that proposals are to be evaluated separately on technical and financial basis, the evaluators of the technical proposal shall not have access to the financial proposals, until the technical evaluation is completed.

11. Technical Evaluation

(1) Technical evaluation will be done by a committee to be nominated by the Commission taking into account the criteria mentioned below. Each criterion shall be marked on a scale of 1 to 100 and then the marks for each criterion shall be weighted to become average technical scores. Weights in the following ranges will be used by the technical committee with the approval of the Commission to calculate the weighted average technical score for each proposal :- Criterion Range of Weights

The Consultants relevant experience for the assignment 0.10 to 0.40

The quality of the methodology proposed 0.20 to 0.50

The qualifications of the key staff proposed 0.30 to 0.60

The extent of transfer of knowledge to the staff of the Commission 0.05 to 0.35

Note: The mix of weights approved by the Commission will total to 1.

(2) Where the assignment depends critically on the performance of the key staff, the proposal shall be evaluated on the qualifications of the individuals proposed to be appointed using the following criteria: -

(a) General qualifications: General education and training, length of experience, positions held, time with the consulting firm as staff, experience in developing countries etc.

(b) Adequacy for the assignment: Education, training, experience in the specific sector, field, subject and relevance to the particular assignment.

(c) Regional Experience: knowledge of the administrative system, organization and culture at the local / regional level.

(3) After the technical evaluation is completed the Commission shall inform those Consultants whose proposals did not meet the minimum qualifying mark or were considered non-responsive to the terms of reference, and their financial proposals will be returned unopened after completing the selection process. Simultaneously, those Consultants who have secured the minimum qualifying marks shall be informed about the date and time for opening the financial proposals, giving sufficient time for the Consultants to be present at the opening should they so desire.

12. Financial Evaluation

(1) The financial proposals of the pre-qualified Consultants will be opened publicly. The proposed prices shall be read aloud and recorded in a minute of the public opening.

(2) The Secretary will cause a review of the financial proposals to be done. Arithmetical errors will be corrected. The cost will be converted to a single currency using uniform selling (exchange) rates.

(3) The proposal with lowest cost will be given a financial score of 100 and other proposals given financial

scores that are inversely proportional to their prices.

13. Evaluation of financial and technical scores

(1) The total score shall be obtained by weighting the technical and financial scores and adding them. the weight for the financial score shall be as prescribed by the Commission in each case taking into account the complexity of the assignment and the relative importance of quality. However, the weight will never exceed 0.3 for the financial score in any case.

(2) The Commission may appoint a negotiating committee to enter into both technical and financial negotiations. Where technical negotiations are conducted they will be completed prior to pre-qualification of the Consultants. Financial negotiations can be entered into for any aspect of the financial proposal including the unit rates for staff months, contingency amounts, lump sum reimbursement of travel and living expenses and payment terms.

(3) The Commission may reject all proposals if they are found to be unresponsive or unsuitable either because they represent major deficiencies in complying with the TOR or they involve cost substantively higher than the original estimate.

14. Single source selection

Single source selection may be used in exceptional cases where it is appropriate, and represents a clear advantage because the tasks represent a natural continuation of previous work carried out by the Consultant, or where a rapid selection is essential, or for small assignments where the fee payable does not exceed Rs.5 lakhs in each case or where only one firm is qualified or has experience for the assignment.

15. Selection of individual Consultants

(1) Individual Consultants will be employed for assignments for which teams of personnel are not required, no additional outside (home office) professional support is required, and where the experience and qualifications of the individual are the paramount requirement.

(2) Individual Consultants will be selected on the basis of their qualifications for the assignment. They may be selected on the basis of references or through comparison of qualifications among those expressing interest in the assignment or approached directly by the Commission. Capability will be judged on the basis of academic background, experience and, as appropriate, knowledge of local conditions, administrative system and government organization.

16. Conflict of interest

Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients or that may place them in a position of not being able to carry out the assignments objectively and impartially.

17. Saving of inherent power of the Commission

Nothing in these provisions shall bar the Commission from adopting a procedure which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of the matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient to depart from the procedure prescribed in the regulations.

18. General power to amend

The Commission may at any time and on such terms as it may think fit amend any provisions of these Regulations for the purpose of meeting the objectives with which these Regulations have been framed.

19. Power to remove difficulties

If any difficulty arises in giving effect to any of the provisions of these Regulations the Commission may, by general or special order, do anything not being inconsistent with the provisions of the Act which appears to it to be necessary or expedient for the purpose of removing the difficulties.

SCHEDULE 'A'

INDIVIDUAL CONSULTANT	Category	Maximum Fee per man-day	Daily Allowance
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Advisers Rs.5000/- Actuals for boarding and lodging expenses

Senior Consultants Rs.4000/- Actuals for boarding and lodging expenses

Consultants Rs.2000/- Actuals for boarding and lodging expenses

Note: The Commission reserves the right to specify the exact amounts permissible as daily Allowance, determine the reasonable limits within which actual expenses are to be allowed, on a case-to-case basis, and assess the reasonableness of any claim submitted thereof.

INSTITUTIONAL CONSULTANT

In the case of an institutional consultant the rates for different categories of individual consultants will be used to determine the reasonableness of costs allocated to consultant time in the proposal. In addition to the costs for consultant time, amount allowable for overheads on account of office expenditure like telephone, photocopying, fax, expenses etc. will be subject to negotiation and broadly be based on the actual position regarding these expenditures. The limit for contingency in the case of institutional consultant will be 10% of the fees payable for consultant time besides the amount allowed as overhead for office expenses.

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