

Bhopal, Dated: 25th June, 2004

No. 1713- MPERC-2004. --- In exercise of the powers conferred under section 181(i) and 91(4) of the Electricity Act, 2003 (No.36 of 2003), the Madhya Pradesh Electricity Regulatory Commission hereby makes the (Appointment of Consultants) Regulations, 2004, namely.

(Appointment of Consultants) Regulations, 2004.

1. Title and Commencement of the Regulations :

1. (1) These Regulations may be called the Madhya Pradesh Electricity Regulatory Commission (Appointment of Consultants) Regulations, 2004.
2. The Regulations shall come into force from the date of their publication in the official gazette.

2. Definitions

2(1) In these Regulations, unless the context otherwise requires:

- (a) '**Act**' means the Madhya Pradesh State Vidyut Sudhar Adhiniyam 2000 (No. 4 of 2001);
- (b) '**Commission**' means the Madhya Pradesh Electricity Regulatory Commission, established under the Act;
- (c) '**Chairperson**' means the Chairperson of the Commission;
- (d) '**Member**' means Member of the Commission;
- (e) '**Secretary**' means the Secretary of the Commission;
- (f) '**Officer**' means an officer of the Commission'
- (g) '**Consultant**' any individual, firm, body or association of persons, not in the employment of the Commission, who or which possesses or has access to any specialized knowledge, experience or skill.
- (h) '**State Government**' means the Government of Madhya Pradesh.

2(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.

3. Scope of Work.

Consultants will not be normally appointed for routine day to day work for which staff is available.

- (1) Consultants would be engaged 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.
- (2) Detailed terms of engagement 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 one year. On justifiable reasons, extension of contract may be given for a duration of six months, only twice against such contracts.

5. Categorization of Consultants

- (5) Individual consultants will be categorized into one of the three levels of Advisor, Sr. consultant and Consultant based on their expertise and experience, as per the table given below

Discipline	Minimum Qualification	Minimum Experience in number of years		
		Advisor	Sr. Consultant	Consultant
Economics	Ph.D	15	10	5
	Master Degree	18	12	10

Engineering	B.E. or Equivalent	18	12	8
Finance	C.A/MBA(F)/CWA, CFA	18	10	5
Law	Degree in Law	18	12	10

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

6. Fees & Other Charges

- 1) For individual consultant engaged on monthly basis a consolidated remuneration shall be paid, as may be decided by the Commission from time to time, but shall not exceed rupees twenty five thousand per month.
- 2) For service on daily basis, remuneration per day shall be as follows subject to the condition that engagement on daily rate shall not normally be for more than 7 days at a time.:

Category Remuneration per day (Rs.)

Advisor	2,500/-
Sr. Consultant	1,500/-
Consultant	1,000/-

- 3) In the case of institutional consultants the rates normally will be as determined through competitive bidding. In exceptional cases where single source selection is required due to reasons explained in clause 13, rates of different levels of individual consultants will be used to determine the reasonableness of the cost allocated to consultant time in the proposal. A maximum of 10% over the cost of consultant time so arrived will be allowable for overheads for office expenses. Additional up to a limit of 10% of the

cost of consultant time will be payable as contingency traveling expenses wherever required will be payable at rates approved by the Commission.

- 4) The consultants until and unless allowed by the commission, will work with the Commission at its headquarters. Where the Consultant has to incur expenditure on official travel and stay at a place away from the normal place of duty, the Commission will reimburse DA by allowing an additional expenditure in lump sum. The number of days on which this lump sum 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 as decided by the Commission.
- 5) These regulations regarding fees payable will also apply to former and retired Government servants engaged as Consultants.

7. Appointment of Consultants

- 1) Terms of Reference (TOR) for the appointment of Consultants for specific tasks will be prepared and approved by the Commission.
- 2) The Scope of service described in the TOR shall be compatible with the available budget. The need for such an assignment will decide the scope of work.
- 3) The Commission may decide either to invite combined technical and financial proposals or separate technical and financial proposals.
- 4) The Commission will prescribe the minimum qualifying mark for the technical bid.
- 5) After approval of the TOR by the Commission, the Secretary will invite proposals from interested consultants, ensuring that appropriate publicity is given 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.2 lakh in each case, where commission may call for application or offer or nomination from such individuals, firms, companies, association of person, bodies, institutions as commission may consider appropriate. The decision of the commission shall be final in this regard.

8. Request for proposals

The request for proposal shall include the following:-

- 1) A letter of invitation stating the intention of the Commission to enter into a contract for provision of a consulting services, the date, time and address for submission of proposals.
- 2) Information to Consultants shall contain all necessary information that will help Consultants prepared 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.
- 3) Terms of reference shall be prepared to define clearly 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 in 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.
- 4) Draft contract as per proforma in schedule I.

9. Receipt of proposals

- 1) Enough time shall be allowed for the Consultant to prepare and submit their proposals. While the time allowed shall

depend on the assignment, it will normally not be less than two weeks, during which period firms may seek clarifications about the information provided in the TOR.

- 2) The Commission may decide to extend the deadline for submission of proposals, as deemed appropriately 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 are to be submitted, they shall be furnished in separate sealed envelope.

10. **Evaluation of Proposals**

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.

Technical Evaluation

(1) Technical evaluation will be done by a committee nominated by the Commission taking into account the following criteria. Each criterion shall be marked on a scale of 1 to 100 and then the marks for each criteria 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 0.20
The quality of the methodology proposed	0.20 to 0.50
The qualifications of the key staff proposed	0.60 to 0.30
The extent of transfer of knowledge to the staff of the Commission	0.10 to 0.00

Note: The mix of weights approved by the Commission must 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 firms 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 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.

11. Financial Evaluation

- (1) The financial proposals of the pre-qualified Consultants will be opened by the committee in presence of Consultants or their representatives whose bids are short listed for financial evaluation. The proposed prices shall be readout. The details shall be recorded in minutes of the proceedings.
- (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.

e.g. **Financial Score of Firm A = $100 \times LP / (QP)$**

where LP = Lowest Price and

QP = Quoted Price of firm "A"

12. 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 of they involve cost substantially higher than the original estimate.

13. **Single source selection**

Single source selection shall be used only in exceptional cases where it is appropriate and represents a clear advantage because:

- (1) The tasks represent a natural continuation of previous work carried out by the Consultant, or
- (2) A rapid selection is essential, or
- (3) Assignments are small and the fee payable does not exceed Rs.2 lakhs in each case, or
- (4) Only one person is qualified or has experience for the assignment.

14. **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.

15. Other terms and conditions

- (1) 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.
- (2) The Consultant shall work under the control and supervision of the Chairperson of the Commission or officers as may be authorized by him, but shall be liable to furnish its independent professional expert opinion.
- (3) The Consultant shall submit his/their report/advice to the Chairperson.
- (4) The Consultant will not be an officer of the Commission in terms of the Act or Rules or Regulations but other terms of appointment of the consultant in addition to consolidated remuneration and other conditions given in these Regulations, shall be such as may be decided by the Commission.
- (5) In case of noncompliance of the Regulations and orders of the Commission, the Commission may take suitable action as per the provisions under the Act.,

Rules and Regulations or the Commission may deem any other action as proper.

- (6) The Commission shall have full and unrestricted right to appoint a Consultant or terminate, curtail or extend the terms of any Consultant at its sole discretion,

16. **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.

17. General power to amend

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

18. 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.

By Order of the Commission

ASHOK SHARMA, Dy. Secy.