

Gazette Notification dated 30.1.2009

Bhopal, Dated: 16th January, 2009

No. 128- MPERC-2009 --- In exercise of the powers conferred under Section 181(1) and 91(4) of the Electricity Act, 2003 (No.36 of 2003), the Madhya Pradesh Electricity Regulatory Commission revises the Madhya Pradesh Electricity Regulatory Commission (Appointment of Consultants) Regulations, 2004, which was notified in the Gazette of M.P. on 02.07.2004.

Madhya Pradesh Electricity Regulatory Commission (Appointment of Consultants) (Revision-1) Regulations, 2009

1. **Title and Commencement of the Regulations :**(1) These Regulations may be called the “**Madhya Pradesh Electricity Regulatory Commission (Appointment of Consultants) (Revision-1) Regulations, 2009 (RG-6(I) of 2009).**”

(2) The Regulations shall come into force from the date of their publication in the official gazette.

(3) These Regulations shall extend to the entire State of Madhya Pradesh.

2. Definitions:

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

(a) ‘**Act**’ means the Electricity Act, 2003 (No. 36 of 2003);

(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. The Consultant includes Senior Consultant and Advisor as well.

(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 assigned to them 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 such tasks only, where the nature of jobs is specific and time bound and outside support is required.
- (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**

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

- (2) In case any consultant possesses Ph.D. degree in any of the concerned disciplines, the Commission may relax up to 3 years in minimum experience required.

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. The consultant is required to attend office on all working days.
- 2) For service on daily basis, remuneration per day shall be as follows subject to the condition that engagement on daily rate shall not be normally for more than 10 working days during one month and 90 working days during one year:

<u>Category</u>	<u>Remuneration per day (Rs.)</u>
Advisor	2,500/-
Sr. Consultant	1500/-
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 of office expenses. Additional up to a limit of 10% of the cost of consultant time will be payable as contingency. Travelling 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 residence, 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) 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 in cases where the value of the estimated fee is below Rs.2 lakh. In such cases, Commission may call for application or offer or nomination from such individuals, firms, companies, association of persons, bodies and 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 providing 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 in preparing 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 shall 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 shall be 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 which shall not be less than 21 days from the date of publication of Request for Proposal 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 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 envelope. Where the Commission prescribes that separate technical and financial proposals are to be submitted, they shall be furnished in separate sealed envelopes.

10. Technical Evaluation

- 1) The Commission shall prescribe the qualifying technical, Commercial and experience criteria for each consultancy assignment and in all cases where the Commission decides to invite technical and financial proposal separately, financial proposal shall be opened only of those consultancy firms who meet the technical qualifying requirements prescribed by the Commission for a particular assignment as under.
 - a) 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

b) 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:-

- i. General qualifications: General education and training, length of experience, positions held, time with the consulting firms as staff, experience in developing countries etc.
- ii. Adequacy for the assignment: Education, training, experience in the specific sector, field subject and relevance to the particular assignment.
- iii. Regional Experience: Knowledge of the administrative system, organization and culture at the local/regional level.

2) The consultancy firms meeting the minimum technical qualifying marks as decided by the Commission shall be informed about the date and time of opening of the financial proposal. Sufficient time shall be given to such consultancy firms to be present at the time of opening of financial proposals if they so desire. In case of Consultants whose proposals did not

meet the minimum qualifying mark or were considered non-responsive to the terms of reference, financial proposals shall be returned unopened after completion of the selection process.

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) A review of the financial proposals shall be done. Arithmetical errors will be corrected. The cost will be converted to a single currency using uniform selling (exchange) rates.
- (3) The consultancy firm quoting the minimum financial price shall be awarded the contract.
- (4) The Commission may appoint a Negotiating Committee to enter into negotiation with the lowest financial bidder. In case the lowest bidder does not respond within the stipulated time then the Commission may call the second lowest financial bidder and so on.
- (5) 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 substantially higher than the original estimate.

12. 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, appropriate experience, knowledge of local conditions, administrative system and government organization.

13. 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 Consultants 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 his / her independent professional expert opinion.
- (3) The Consultant(s) 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 right to appoint a Consultant or terminate, curtail or extend the terms of any Consultant at its sole discretion.

14. 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.

15. 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.

16. 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, Commission Secretary.

SCHEDULE -1

ARTICLES OF AGREEMENT made on this _____ day of _____ BETWEEN _____ of the one part and the M.P. Electricity

Regulatory Commission (herein after called "the Commission") of the other part, WHERE AS the Commission has engaged the party of the first part as a Consultant and the party of the first part has agreed to provide the consultancy services to the Commission, on the terms and conditions hereinafter contained.

NOW THESE PRESENT WITNESSES and the parties hereto respectively agree as follows:

1. The party of the first part shall submit itself to the orders of the Commission and of the officers and authorities under whom it may from time to time be placed by the Commission.
2. The party of the first part shall complete the assignment as contained in Annexure-I within a period of one month commencing from _____
3. The party of the first part shall be paid as under :
4. The schedule of payments shall be as under:
5. No TA/DA shall be admissible to the party of the first part for local journey in connection with the consultancy assignment.
6. The party of the first part shall not disclose to any authorized person any information and data that may be supplied to it by the Commission or by any other organization under the directions of the Commission. All such documents or any information, that may have come to its knowledge directly or indirectly by virtue of the assignment, shall be the property of the Commission.
7. The party of the first part undertakes that this assignment shall not be in conflict with its prior or current obligation to other clients not shall it place it in a position of not being able to carry out the assignments objectively and impartially.
8. In case of any default on the part of the party of the first part in completion of the work within the time schedule agreed to between the parties as herein above, the party of the second part shall be at liberty to get the work completed from any other agency at the risk and cost of the party of the first part.
9. In case of any difference or dispute between the parties arising out of this Agreement, it shall be referred for arbitration to a person nominated by the Commission. The proceedings shall be subject to the Arbitration and Conciliation Act, 1996, as amended from time to time.

10. The payment of fee to the party of first part shall be made by the Commission after the deduction of tax at source in accordance with law for the time being in force.

11. The Commission reserves its rights to foreclose, terminates or cancel the engagement of the Consultant without assigning any reasons. In such cases, party of the first part shall be paid remuneration after taking into consideration the part of work completed prior to such foreclose, termination or cancellation of the engagement as may be decided by the Commission, and the decision of the Commission shall be conclusive and binding. The remuneration so fixed and paid shall be deemed to be the final payment in such cases.

12. In respect of any matter for which no provision has been made in this agreement, the provisions contained in the general instructions of the Government on the subject of engagement of consultants shall apply.

In witness whereof the party of the first part and _____ to the Commission on behalf of the Commission have hereto put their hands on the day and the year first above written.

Signed by _____ for _____ the party of the first part in the presence of _____.

Signed by _____ the _____ to the Commission for an on behalf of the Commission in the presence of _____.