

The Central Electricity Regulatory Commission (Appointment of Consultants) Regulations, 1999

UNION OF INDIA

India

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Rule

THE-CENTRAL-ELECTRICITY-REGULATORY-COMMISSION-APPOINTMENT of 1999

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The Central Electricity Regulatory Commission (Appointment of Consultants) Regulations, 1999 Published vide Notification Gazette of India, Extraordinary, Part 3, Section 4, dated 31st December, 1999 Notification No. 1/18(28)/99-CERC dated 29th December, 1999. - In exercise of the powers conferred on it by Section 55 of the Electricity Regulatory Commissions Act, 1998 (Act 14 of 1998) the Central Electricity Regulatory Commission hereby makes the following Regulations, namely:-

1. Short title and commencement.

- (i) These regulations may be called the Central Electricity Regulatory Commission (Appointment of Consultants) Regulations, 1999. (ii) These shall come into force with effect from September 21, 1999.

2. Definitions.

(1) In these Regulations unless the context otherwise requires- (a) "Act" means, Electricity Regulatory Commission Act, 1998; (b) "Commission" means the Central Commission constituted under Section 3(1) 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 specialised 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.

3. Scope of work.

(1) Consultants, will not be normally appointed for routine day to day work for which staff is available. (2) Consultants would be engaged for executing specialised 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. (3) Details terms of engagement will be drawn up in each case and agreed to between the consultant and the Commission prior to award of consultancy. (4) 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 Consultants 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. Categorisation 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 Qualifications	Minimum Experience
Advisers	Ph.D.	15 years
Advisers	Masters Degree	18 years
Sr. Consultant	Ph.D.	8 years
Sr. Consultant	Masters Degree	12 years
Sr. Consultant	Ph.D.	3 years
Sr. Consultant	Masters Degree*	5 years

Note : In the case of Lawyers, Accountants and Engineers, the minimum educational qualifications will be the relevant professional qualification. (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 and other charges.

(1) A consolidated fee at the rates mentioned below would be payable for each category of individual Consultant. (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 in lump sum as indicated in the table below. The number of days in 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, which will never be lower than that permitted for a Grade A gazetted officer of the Government of India.

Category	Fee Per Man-day	Lump sum per day for Daily Allowance
Advisers	Rs.3000	Rs. 2000
Sr. Consultants	Rs. 2000	Rs 1500
Consultants	Rs. 1200	Rs 1000

(4) These regulations regarding fees payable will also apply to former and retired Government servants engaged as Consultants. (5) 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 a maximum of 10% of the fees payable will be allowable for overheads on account of office expenditure like telephone, photocopying, fax, expenses etc. 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.

7. Appointment of Consultants.

(1) Terms of Reference 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 Secretary will ensure that budgetary provision exists for the proposal prior to putting the proposal up for consideration by the Commission. (3) The scope of the services described in the TOR shall be compatible with the available budget. (4) The Commission may decide either to invite combined technical and financial proposals or separate technical and financial proposals. (5) The Commission will prescribe the minimum qualifying mark for the technical bid. (6) After approval of the Terms of Reference by the Commission, the Secretary will cause the Request for Proposals to be issued inviting 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.

8. Request for proposals.

- The request for proposal 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 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 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 per pro forma 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 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 are to be submitted they shall be submitted in separate sealed envelopes.

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.

11. 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 Consultant's 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 of the key staff proposed	0.30 to 0.60
The extent of transfer of knowledge to the staff of theCommission	0.00 to 0.05

Note: The mix of weights approved by the Commission must total to 1.(3)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, organisation and culture at the local/regional level.(4)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 substantive higher than the original estimate.

14. Single source selection.

- Single source selection shall be used only 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 very small assignments where the fee payable does not exceed Rs. 2 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 organisation.

16. Conflict of interest.

- Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to others 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 any thing 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.

I

Articles of agreement made on this..... day of..... between.....of
..... of the one part and the Central Electricity Regulatory Commission
(hereinafter called "the Commission") of the other part. Whereas 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 presents witness and the parties hereto respectively agree as follows:

1. The party of the first part shall submit himself to the orders of the Commission and of the officers and authorities under whom he 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 "A" within a period of..... 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 journeys in connection with the consultancy assignment.**
- 6. The party of the first part shall not disclose to any unauthorised person any information and data that may be supplied to him by the Commission or by any other organisation, under the directions of the Commission. All such documents shall be the property of the Commission or any information that may have come to his knowledge directly or indirectly by virtue of the assignment.**
- 7. The party of the first part undertakes that this assignment shall not be in conflict with his prior or current obligation to other clients nor shall it place him 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 parts in completion of the work within the time schedule agreed to between the parties as hereinabove, 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 differences or disputes between the parties arising out of this Agreement, it shall be referred for arbitration of 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 it right to foreclose, terminate 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 the Commission have hereto put their hands the day and the year first above written.Signed by..... the party of the first part in the presence of.....Signed by..... the said to the Commission for and on behalf of the Commission in the presence of.....