

Joint Electricity Regulatory Commission for UT of Jammu & Kashmir and UT of Ladakh (Appointment of Consultants) Regulations, 2023

UNION OF INDIA

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Joint Electricity Regulatory Commission for UT of Jammu & Kashmir and UT of Ladakh (Appointment of Consultants) Regulations, 2023

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In exercise of powers conferred on it by subsection (4) of Section 91 read with Section 181 of the Electricity Act, 2003 (36 of 2003), and all other powers enabling it in that behalf, the Joint Electricity Regulatory Commission for UT of Jammu & Kashmir and UT of Ladakh, after previous publication, hereby makes the following regulations, namely:

1. Short Title and Commencement.

1.1 These regulations may be called the Joint Electricity Regulatory Commission for UT of Jammu & Kashmir and UT of Ladakh (Appointment of Consultants) Regulations, 2023.1.2 These 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 Electricity Act, 2003 (36 of 2003);b. "*Commission*" means the Joint Electricity Regulatory Commission for UT of Jammu & Kashmir and UT of Ladakh ;c. "*Committee*" means the committee constituted by the Commission for evaluation of request of proposals;d. "*Consultant*" includes any individual - not in the employment of the Commission, firm, body or association of persons, who or which possesses or has access to any specialized knowledge, experience or skill;e. "*Secretary*" means the Secretary of the Commission.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.

3.1 The Commission may from time to time appoint Consultants for executing specialized tasks for which skills are either not available within the staff of the Commission or where the nature of job is specific and time bound or where the Commission considers appointment of consultant to be conducive or more efficacious and efficient method of completing the task in terms of quality, cost, time or for any other consideration or performing such other functions and for generally assisting the Commission in the performance of its functions, if the Commission considers it necessary.3.2 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 the award of work.3.3 The terms of engagement would specify the exact nature of the tasks to be undertaken by the Consultant, the time allowed for the completion of each task, and the specific outputs that are to be provided by the Consultant in relation to each work as per terms of reference approved in this regard.

4. Period of Appointment.

4.1 The consultant shall be appointed for the minimum period:Provided that the period of the initial appointment of a consultant on any specific assignment shall not normally exceed two years:Provided further that period of appointment may be extended subject to the condition that the maximum period of continuous appointment of a consultant in no case shall exceed four years.

5. Categorisation of Consultants.

5.1 The consultants shall be categorized as: (a) Institutional consultants, (b) Individual consultants, (c) Professional, Expert, and (d) Staff Consultant.

6. Institutional Consultant.

The Commission, on being satisfied that there is a need for availing consultancy services which, in its opinion, maybe more appropriately provided by a firm, or a company or an association or body of persons, shall engage an Institutional Consultant.

7. Individual Consultant.

7.1 The Commission, on being satisfied that there is a need for availing consultancy services which, in its opinion, can be more efficiently performed by an individual having required qualifications and experience for an assignment, for which teams of personnel are not required, may decide to engage an Individual Consultant.7.2 Individual Consultant may also be appointed for assisting the Commission in the discharge of its function-, if the Commission is satisfied that there has been an increase in the quantum of work of the Commission or a regular post could not be filled due to various constraints.7.3 The Headquarters of the individual consultant normally shall be the Headquarters of the Commission.7.3 Categorization of Individual Consultants

Category	Minimum Experience in the Area of Appointment
Advisors	15 years
Senior Consultants	10 years
Consultants	3 years

8. Professional Expert.

The Commission on being satisfied on the need for the professional expertise of specialized nature may decide to engage a professional expert for advice on the issue of urgent and specialized nature.

9. Staff Consultant.

Staff Consultant may be appointed for assisting the commission in discharging its functions. If the Commission is satisfied that there has been increasing in the quantum of work of the Commission or a regular post could not be filled due to various constraints.

10. Appointment of Institutional Consultant.

10.1 The Commission, on being satisfied that there is a need to avail services of the Institutional Consultant for any task, shall direct the Secretary to prepare or cause to be prepared the detailed terms of reference. 10.2 The Secretary shall prepare or cause to be prepared the detailed terms of reference for the appointment of Consultant for any specific task and shall obtain approval of the Commission. 10.3 The 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 consultant in the preparation of his proposal: Provided that the terms of reference shall also 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 included in the terms of reference. Provided further that where transfer of knowledge-, and training is an objective, the terms of reference shall detail the number of staff to be trained. 10.4 After approval of the terms of reference by the Commission, the Secretary shall issue or cause to be issued the request for proposals to invite proposals for appointment as Institutional Consultant and give such publicity as may be considered appropriate by the Commission. 10.5 The Commission may decide either to invite combined technical and financial proposals or separate technical and financial proposals. 10.6 The Commission may prescribe the minimum qualifying marks for the technical bid.

11. Request for proposals.

The request for proposals shall include the following: - 11.1 A letter of invitation stating the intention of the Commission to enter into a contract for the provision of consultancy services, the details of the plan, and the date, time, and address for submission of proposals. 11.2 Information to the consultants shall contain all necessary information that will help them to 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 and special qualifying clause if any. 11.3 Terms of reference as prepared in this regard as per regulation

12. Receipt of proposals.

12.1 The Commission shall prescribe the time within which the Consultants shall submit their proposals.12.2 The Commission may, where it considers appropriate, decide to extend the time limit for the submission of proposals.12.3 No amendment to the technical or financial proposals shall be accepted after the expiry of the time limit.12.4 The proposals shall be submitted in sealed cover(s).

13. Evaluation of proposals.

13.1 The proposal shall be evaluated both on the basis of technical competence as well as quoted cost.13.2 Where the Commission decides that the technical and financial proposals be evaluated separately, the Committee shall not have access to the financial proposals, until the evaluation of the technical proposals is completed.13.3 The proposal shall be evaluated by a Committee appointed by the Commission in this regard. The Committee may enter into both technical and financial negotiations. Where technical negotiations are conducted, the same will be conducted prior to the pre-qualification of 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.

14. Technical Evaluation.

14.1 Technical evaluation will be done by the Committee appointed under regulation (13.3) above taking into account the criteria given under regulation (14.2) below.14.2 Each technical 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 Committee, with the approval of the Commission, to calculate the weighted average technical score for each proposal: -

Criterion	Range of Weights
Consultant's relevant experience for the assignment	0.10 to 0.40
Quality of the methodology proposed	0.20 to 0.50
Qualifications of the key staff proposed	0.30 to 0.60
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. The Evaluation Committee appointed under Regulation (13.3), shall decide the weight age to be allocated (in the range prescribed above) to each of the parameters for the purpose of technical evaluation of bids, and obtain the approval of the Chairperson of the Commission for the allocation. The Commission shall have the right of distribution of marks on the basis of the nature and requirement of the assignment.14.3 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.14.4 After the technical evaluation is completed, the Commission shall inform those Consultants whose proposals did not meet the minimum qualifying marks or were considered non-responsive to the terms of reference, and their financial proposals will be returned unopened after completing the selection process.14.5 Simultaneously, those Consultants who have secured the minimum qualifying marks after technical evaluation 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.

15. Financial Evaluation.

15.1 The financial proposals of the technically qualified Consultants will be opened by the Committee in the presence of consultants or their representatives whose bids are shortlisted for financial evaluation. The proposed prices shall be read aloud and recorded in minutes of the proceedings.15.2 The Secretary will cause a review of the financial proposals to be done. Arithmetical errors will be corrected. The cost shall be quoted in Indian Rupees.15.3 The proposal with the lowest cost will be given a financial score of 100 and other proposals will be given financial scores that are inversely proportional to their cost.

16. Evaluation of financial and technical scores.

16.1 The total score shall be obtained by weighting the technical and financial scores and adding them and the consultant with the highest total score shall be invited by the Commission to enter into a contract within the prescribed time limit. The weight for the technical and 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.16.2 The Commission may reject any or all proposals if they are found to be unresponsive or unsuitable either because they represent major deficiencies in complying with the terms of reference or they involve cost substantively higher than the original estimate.

17. Appointment of Individual Consultants.

Individual consultants may be selected on the basis of their qualifications and experience for the assignment. The Commission may direct the Secretary to prepare the terms of reference indicating the scope of work and other terms and conditions as per the requirement, which shall be submitted to the Commission for approval. Individual Consultants may be selected on the basis of references or from amongst those who have applied against the notice published by the Commission in this regard, as the case may be. Their suitability shall be judged on the basis of academic background, experience, and adequate knowledge of local conditions, administrative system, and government organization.17.1 Minimum Qualification and Age criteria: The aspirant candidate should possess (a) a Bachelor's degree in Engineering from a recognized college/ university. (b) The candidate must have a clear understanding of the Electricity Act, 2003, the rules and regulations made under the Act, and the applicable policies, legal and regulatory framework related to the power sector. (c)

Proven experience in providing assistance to States/Joint/Central Electricity Regulatory Commissions during the regulatory proceedings involved during the tariff determination process and related matters. (d) the candidate up to the age of 60 years on the date of application are eligible to work as an individual consultant and can render services to the Commission till attaining the age of 65 years; after ward no age relaxation shall be allowed.

18. Fees and Other Charges in Case of Individual Consultants.

18.1 Except where the Commission directs otherwise, the individual consultant shall be appointed generally on a consolidated fee basis, depending on the nature of the assignment or monthly fee basis. 18.2 No payments in addition to the consolidated fee in accordance with sub-regulation (1) shall be made in the case of individual consultants: Provided that the Commission may allow an additional amount not exceeding 10% of the fee payable to the consultant to cover expenditures of contingent nature. 18.3 Where the consultant has to incur expenditure on travel to and stay at a place away from the headquarters of the Commission, the Commission shall reimburse the cost of travel by an appropriate class, not lower than that permitted to a Group A Officer of the Central Government and authorize payment of Daily Allowance, in addition to the fee and other charges payable under these regulations, for such number of days as the Commission may consider appropriate. 18.4 The fee and other charges payable to individual consultants under these regulations shall also be payable to former and retired Government servants appointed as consultants by the Commission.

Category	Maximum Fee per man day	Daily Allowance
Advisors	Rs.7500/-	Actual for boarding and lodging expenses
Senior Consultants	Rs.5500/-	Actual for boarding and lodging expenses
Consultants	Rs.3000/-	Actual for boarding and lodging expenses

Note. - 1. The Commission reserves the right to decide about the fee payable to the Individual Consultant on a daily/monthly basis based on the experience and credentials of the Individual consultant as deemed proper by the Commission. 2. The Commission also reserves the right to specify the 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.

19. Appointment of Professional Experts.

On the Commission having decided to engage professional experts, the Secretary of the Commission shall formalize the proposals. He/ She shall prepare a list of not less than two professionals having the requisite expertise in the specialized field, their willingness to accept consultancy work, and the fee demanded by each of them. The Commission may approve the name of the expert for engagement as a consultant on payment of such fee and on such terms, as may be considered appropriate provided that the fee so decided shall not exceed Rs. 10 (Ten) lakhs for an individual specialized assignment of work.

20. Appointment of Staff Consultant.

20.1 The Commission, on being satisfied that there has been an increase in the quantum of work of the commission, or difficulties arising in filing regular posts, may decide to engage a staff consultant to expedite the work, to assist the commission in the discharge of its functions effectively and direct the Secretary to take further steps. 20.2 The Commission, after having decided to engage a staff Consultant, shall invite applications on a tenure basis, by publishing a notice in the National Dailies and on the Commission's Website, and by giving, as far as possible, a period of four weeks for inviting application by the interested persons. 20.3 Before publishing the notice, the Secretary of the Commission shall identify the qualification and experience requirements keeping in view the relevant provisions of the Commission's Regulations governing recruitment against a regular post. 20.4 The staff consultant may be categorized based on qualification and length of experience ranging from 3 to 15 or more years and offered a consolidated fee which shall be equivalent to basic pay plus dearness allowance of the post against which the staff consultant is being engaged. 20.5 The staff consultant shall be engaged on a tenure basis, initially for a period of one year where the fee payable does not exceed Rs.10 lakhs for the year. 20.6 The Commission shall constitute a Selection Committee which shall interact with the candidates and recommend names of suitable persons for engagement as staff consultants for approval of the Commission. 20.7 Minimum qualification and age criteria: The aspirant candidate should possess Bachelor's degree in Engineering from a recognized college/ university. The candidate up to the age of 60 years on the date of application is eligible to work as an individual consultant and can render services to the Commission till attaining the age of 65 years; after ward no age relaxation shall be allowed.

21. Single source selection.

Single source selection may be resorted to by the Commission in appropriate cases where it represents a clear advantage because the tasks represent a natural continuation of previous work carried out by the consultant, or where an immediate selection is essential, or for small assignments where the fee payable does not exceed Rs.10 lakhs or where only one firm is qualified or has experience for the assignment.

22. Conflict of interest.

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

23. Appointment of Consultants.

The consultant selected for appointment shall be required to execute an agreement in the format given in the Schedule at the end of these regulations, with such variations and modifications considered appropriate in individual cases.

24. Saving of the 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 these Regulations.

25. 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 for which these Regulations have been framed.

26. 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

Articles of Agreement made on this _____ day of _____ between _____ of _____ one (first) part (Consultant) and the Joint Electricity Regulatory Commission for UT of Jammu & Kashmir and the UT of Ladakh (herein after called "the Commission") of the other (Second) 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 herein after contained. Now, these presents witnesses and the parties hereto respectively agree as follows: (1) The party of the first part (Consultant) 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 (Consultant) shall complete the assignment as contained in Schedule - A? within a period of _____ commencing from _____. (3) The party of the first part (Consultant) 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. (maybe varied depending on terms agreed for any individual assignment) (6) The payment of the fee shall be made by the Commission after the deduction of tax at source in accordance with the law for the time being in force. (7) Any information of confidential nature, which comes to the knowledge or into the possession of the consultant or any of its employees by virtue of the engagement subject matter of this contract shall not be disclosed by the consultant or its employees to any unauthorized person in any manner. Any breach of this clause without prejudice to any other action that may be initiated according to law-, shall also subject the consultant to a liability to pay to the Commission such compensation as may be decided by the Commission keeping in view the nature, manner, and motive of the information disclosed and the

extent of the damage caused by such unauthorized disclosure.(8) The party of the first part undertakes that this assignment shall not be in conflict with its prior or current obligation to other clients nor shall it place itself in a position of not being able to carry out the assignments objectively and impartially.(9) In case of any default on the part of the party of the first part in the completion of the work within the time schedule agreed to between the parties as herein above, the party of the second part (the Commission) 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 (Consultant).(10) The Commission reserves its right to foreclose, terminate or cancel the engagement of the consultant without assigning any reasons. In such cases party of the first part (Consultant) shall be paid remuneration after taking into consideration the portion of work completed prior to such foreclosure, 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.(11) In case of any differences or disputes between the parties arising out of this AGREEMENT, the same 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.(12) Consultant's Personnel The party of the first part (Consultant) shall provide a Description of personnel with names, positions and qualifications.(13) Removal and/or replacement of the personnel Except as the Commission may otherwise agree, no change shall be made in the key personnel. If, for any reason, beyond the reasonable control of the Consultant, it becomes necessary any of the key personnel, the Consultant shall forthwith provide as a replacement a person of equivalent or better qualifications, which is acceptable to the Commission.(14) If the Commission finds that any of the personnel (1) committed serious misconduct or has been charged with having committed a criminal action or (2) have reasonable cause to be dissatisfied with the performance of any of the personnel, then the Consultant shall, at the Secretary's written request, specifying the ground therefore, forthwith provides as a replacement a person with qualification and experience acceptable to the Commission. The Consultant shall have no claim for additional costs arising out of or incidental to any removable and /or replacement of personnel.(15) Nodal Person of the party of the first part (Consultant) Mr. _____(16) The Secretary, Joint Electricity Regulatory Commission, shall be the Nodal Officer on behalf of the Commission.(17) Any other terms and conditions.(18) 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 of India on the subject of engagement of consultants shall apply.In Witness Where of the party of the first part (Consultant) 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 _____ the party of
the first part in the presence of _____ Signed by _____ to the Commission
for and on behalf of the Commission in the presence of _____