

Central Electricity Regulatory Commission
Engg. Division

B. Specific Recommendations on Standard Bid Documents for Tariff Based Bidding Process for Procurement of Power on Long Term Basis by setting up of power stations where location or fuel is not specified (Case-1)		
Draft RFQ for long-term procurement under case-1		
Para No.	Recommendations	Explanation
<u>Para 1.1.1.1</u>	The para may be amended as follows: <p style="text-align: center;"><u>“Name of the Distribution Licensee or the SPV, (hereinafter referred to as Procurer or the lead procurer) acting through the Name of the Office, Address, on behalf of the participating distribution licensees called the procurers wishes to invite bids for purchase of power on a long-term basis.”</u></p>	As per Competitive Bidding Guidelines of Gol dtd 19.01.2005, a procurer can be a distribution licensee or two or more distribution licensees may join together for a combined bid process. Therefore, para needs to be modified to take care of more than one procurer in case of combined bids.
<u>Para 1.1.1.2</u>	The introduction given at para relating to RFP is more appropriate. Therefore, this para should be replaced with para 1.1.1.2 of draft RFP which reads as follows: <p>“The intent of this bid document is to identify generators and traders for supply of minimum A MW and maximum B MW of power for a period of Z¹ years. The successful Bidders shall enter into a Power Purchase Agreement (PPA) as detailed out in the Power Purchase Agreement forming the part of this document”.</p>	The capacity to be procured should be same in RfQ and RFP and the provisions in both should be same.
<u>Para 1.1.1.3</u>	Brief introduction of Procurer and the purpose of procurement of Power	
	The following may be included under this para:	

(i) Lead Procurer: As per Competitive Bidding Guidelines of GoI dtd 19.01.2005, a procurer can be a distribution licensee or two or more distribution licensees may join together for a combined bid process. In such cases of combined bid process it would be preferable that distribution licensees create a Special Purpose Vehicle (SPV) or designate a distribution licensee from amongst the participating distribution licensees as the Lead Procurer.

(ii) Authorized Person: The SPV or the Lead Procurer should designate one person to represent the procurer in its dealings with the bidder or the bidding consortium as well as with the participating distribution licensees. The person should be authorized to perform all tasks such as providing information, responding to enquiry, issuing clarifications, calling pre-bid conference, issue advertisements for RfQ and RfP, co-ordinations with participating distribution etc.

(iii) Joint Deed: The participating distribution licensees should enter into a Joint Deed Agreement clearly indicating the responsibilities of each distribution licensee, in the proposed bidding process and should be made a part of the bidding documents. Each distribution licensee should duly sign the Joint Deed Agreement, making each of the distribution licensees, individually liable for the procurer's obligations in the bidding process and the PPA. The joint deed agreement should include the following:

- a. Willingness to procure power through the combined bid process.
- b. The share of power to be procured by each distribution licensees.

	<p>c. Agreement on the lead procurer and the task to be performed by the lead procurer.</p> <p>d. Responsibility of each distribution licensees.</p> <p>e. Methodology of approval of the bid documents including the evaluation criteria, PPA provision, payment security mechanism, amendment to the bid documents and methodology for negotiation with the selected bidders by the participating distribution licensees.</p> <p>(iv) <u>Financial capability of the procurer to provide payment security</u>: A prospectus containing information about the financial and operational aspects of the companies in the nature of following may be included in the bidding documents;</p> <ul style="list-style-type: none"> - Last three years audited accounts - Last three years Aggregate Technical & Commercial (ATC) losses - Details regarding existing retail tariff structure, consumer base etc. - Business forecast. <p>(v) <u>Letter of consent</u>: The bidding documents should also contain signed letters (“Letter of Consent”) by each participating distribution licensee, stating that the entire bid documents has been reviewed and each key element of the bid documents is agreed to.</p>	<p>The distribution companies in India are relatively new, formed as a result of reform process. International bidder will have no Knowledge of track record of these new distribution companies and their credit worthiness. Though, the bidders are expected to make their own assessment of the credit worthiness of the procurers it would be advisable to give information regarding procurer’s financial/operational strengths. Therefore, RfQ should include requisite information giving clear picture of the financial strength of each procurer to meet his payment obligation for his share of power. The revelation is necessary right at the RfQ stage in order to get a good response and competitive prices.</p>
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2. <u>INFORMATION AND INSTRUCTION TO BIDDERS</u>		
2.1 Qualifying Criteria		
Para 2.1.1.2	Para may be amended as follows: “Bidders or a member of the bidding consortium should have adequate technical competence and experience and adequate financial capability to execute the project ”.	The evaluation criteria in the RFQ stage provide for looking into financial capability of the bidders alone. However, it is felt that the technical competence and experience of the bidders or any member of the bidding consortium to execute the project is desirable.
2.1.1.3 A (New)	A new para 2.1.1.3 A may be introduced which should read as follows: “The bidder or a member of the bidding consortium must possess one of the following: (i) Experience of having set up at least two power projects of similar unit sizes, which are in operation for the last three years. (ii) Experience of executing at least two infrastructure projects (like construction of airport, Highway, Petroleum Refinery, steel plants etc.) of similar magnitude, along with an undertaking to execute the project through an EPC contractor having experience of having set up at least two power projects of similar unit sizes, which are in operation for the last three years.” (iii) In case the bidder is a trader and intends to provide contracted capacity through new generating station, then the promoter or the EPC contractor executing the project should possess experience of having set up at least two power projects of similar unit sizes, which are in operation for the last three years.	As explained above.

	In case the bidder intends to provide capacity from an existing generating station(s) then he would deem to have fulfilled this criteria.				
2.5 Submission of proposal by consortium of generators/ trader and generators					
2.5.1.2.3 (New)	A new para 2.5.1.2.3 may be added which reads as follows: “The bidder or the bidding consortium should furnish the relevant details of experience to meet the qualifying criteria in para 2.1.1.3A, which shall include the name and addresses of the power project or the infrastructure project, its configuration and capital cost, date of completion etc.”	Information relating to technical competence & experience to meet the evaluation criteria.			
Annexure- I Executive summary	The table may be modified as follows:		Annexure-I to be modified to provide information regarding experience & financial capability of the bidder.		
	Sl. No.	Name/ Address of the Company		Role envisaged	Details of Experience and financial capability

Draft RFP for long-term procurement under case-1

2. Information & instruction to bidders

Para 2.1.1.2	The last sentence of the para may be amended as follows: - "The Normative Availability or Normative Capacity Index ³ required to be met by the Bidder on an annual basis, for the purpose of recovery of annual capacity charges and calculating incentives, shall be 80% ⁴ .	The normative availability & normative capacity Index are also the basis for recovery of full annual capacity charges.
Para 2.1.1.3	The figure "80%" in the sentence may be changed as " 80% ⁴ ".	The figure of 80% is an example as clarified in foot note 4 of the document.
Para 2.1.1.4	The last sentence may be deleted.	As per the scheduling procedures in place, a Procurer can not give a schedule more than the Declared Capacity of his generator even if the Declared Capacity is below the Normative level.

2.3 Commencement of supply and penalty for delay

Para 2.3.1.1	The para should be amended as follows: "The bidder shall start commercial operation or commence supply of contracted capacity within aa ⁸ months from the date of signing of the PPA".	Amendment to para is proposed to take care of supply of capacity from the existing source or the supplies by the trader.
Para 2.3.1.2	The words "or the scheduled date of commencement of supply of contracted capacity" may be added after scheduled commercial operation date,	- do -
Para 2.3.1.4	May be deleted, as it is repetition of para 2.3.1.3.	- do -

2.5 Tariff structure		
Para 2.5.1.1	The last sentence may be amended as under: “The payment will be made to the successful bidder on the basis of quoted values and escalation formula specified in the bid documents. “	Since the capacity charge shall consist of escalable component also, this sentence needs to be modified.
2.13 Bank Guarantee		
Para 2.13.1.5	Following may be added: “Failure to sign PPA within 60 days from the date of letter of award, unless the date of signing is extended with mutual consent.”	Failure to sign PPA within 60 days from the date of letter of award is one of the condition for forfeiture of bank guarantee.
3. Evaluation Criteria		
Para 3.1.1.1	Following corrections should be made: Step III should be made as step II Step IV should be made as step III Step V should be made as step IV	Typographical mistakes.
Step III- Financial Evaluation of Bids		
Para 3.4.3.4	In order to bring clarity to the evaluation criteria, a numerical example may be appended. The numerical example should depict the evaluation of escalable, non-escalable components of Capacity Charges and how the criteria of minimum to maximum ratio of 0.7 for Capacity Charge shall be applied.	

Comments on draft PPA : Case –1

Article 1: Definitions and Interpretations

Bid	It should mean the RFP (Request for Proposal) as submitted by a bidder and not as issued by the procurer.	
Commercial Operation Date or COD	Means in relation to a unit or a block, the date on which such unit or the block is declared commissioned or in relation to the project the date on which the project is declared commissioned by the successful bidder(s) after successful completion of commissioning tests for commercial operations.	This should refer to the actual COD and not the scheduled COD of units or the project.
Contracted Capacity	It should be net Contracted Capacity at the switchyard bus or at the interconnected point and not the gross capacity.	
Scheduled Date of Commencement of supply.	Means in relation to the contracted capacity or the part of the contracted capacity, the date(s) corresponding to the date of commencement of supply quoted in the RFP (Request for proposal).	Definition should be added.
Scheduled Commercial Operation Date or Scheduled COD	Means in relation to a unit or a block, the date on which such unit or the block is expected to be declared commissioned for commercial operation or in relation to a project, the date on which the project is expected to be declared commissioned for commercial operation after successful completion of commissioning test corresponding to the schedule date of commencement of supply.	Definition should be added.
Scheduled Connection Date	It may be linked to scheduled COD and scheduled date of commencement of supply instead of scheduled date of synchronization.	Scheduled COD date shall be more relevant.
Scheduled Synchronization Date	Means in relation to a unit or the block, the date, which may be maximum of 180 days in case of coal based station and maximum of 30 days in case of combined cycle station prior to the scheduled COD of the respective unit or the block.	

REB	The definition may be replaced with definition of RPC.	Act, 2003 provide for RPC instead of REB.
Para 4.4.2	In line with clause 4.10 of Competitive Bidding Guideline, provision for third party sale in case of default in payment by the procurer should be added.	
Para 4.5.1	Add a provision (c) "The seller is unable to commence the supply from an existing station because of Force Majeure Event".	
Para 14.1	The capacity in words is written as ninety two percent whereas the same in figures is written 90%. This anomaly needs to be corrected.	
Miscellaneous	Any reference to CTU may be followed by "STU" and any reference to RLDC may be followed by SLDC, where ever necessary, in the bid documents and the PPA.	

C. Specific Comments on Standard Bid Documents for Tariff Based Bidding Process for Procurement of Power on Long Term Basis by setting up of power stations at specific location and/or fuel (Case-2)		
<u>Draft RFQ for long-term procurement under Case-2</u>		
1. <u>Introduction</u>		
Para No.	Recommendation	Explanation
Para 1.1.1.1	The para may be amended as follows: <p style="text-align: center;"><i><u>"Name of the Distribution Licensee or the SPV. (hereinafter referred to as Procurer or the lead procurer) acting through the <u>Name of the Office, Address, on behalf of the participating distribution licensees called the procurers</u> wishes to invite bids for purchase of power on a long-term basis."</u></i></p>	As per Competitive Bidding Guidelines of Gol dtd 19.01.2005, a procurer can be a distribution licensee or two or more distribution licensees may join together for a combined bid process. Therefore, para needs to be modified to take care of more than one procurer in case of combined bids.
Para 1.1.1.3	<u>Brief introduction of Procurer and the purpose of procurement of Power</u>	
	The following may be included under this para: <p>(i) <u>Lead Procurer</u>: As per Competitive Bidding Guidelines of Gol dtd 19.01.2005, a procurer can be a distribution licensee or two or more distribution licensees may join together for a combined bid process. In such cases of combined bid process it would be preferable that distribution licensees create a Special Purpose Vehicle (SPV) or designate a distribution licensee from amongst the participating distribution licensees as the Lead Procurer.</p> <p>(iii) <u>Authorized Person</u>: The SPV or the Lead Procurer</p>	

should designate one person to represent the procurer in its dealings with the bidder or the bidding consortium as well as with the participating distribution licensees. The person should be authorized to perform all tasks such as providing information, responding to enquiry, issuing clarifications, calling pre-bid conference, issue advertisements for RfQ and RfP, co-ordinations with participating distribution etc.

(iii) Joint Deed: The participating distribution licensees should enter into a Joint Deed Agreement clearly indicating the responsibilities of each distribution licensee, in the proposed bidding process and should be made a part of the bidding documents. Each distribution licensee should duly sign the Joint Deed Agreement, making each of the distribution licensees, individually liable for the procurer's obligations in the bidding process and the PPA. The joint deed agreement should include the following:

- f. Willingness to procure power through the combined bid process.
- g. The share of power to be procured by each distribution licensees.
- h. Agreement on the lead procurer and the task to be performed by the lead procurer.
- i. Responsibility of each distribution licensees.
- j. Methodology of approval of the bid documents including the evaluation criteria, PPA provision, payment security mechanism, amendment to the bid documents and methodology for negotiation with the selected bidders by the participating distribution licensees.

	<p>(iv) <u>Financial capability of the procurer to provide payment security</u>: A prospectus containing information about the financial and operational aspects of the companies in the nature of following may be included in the bidding documents;</p> <ul style="list-style-type: none"> - Last three years audited accounts - Last three years Aggregate Technical & Commercial (ATC) losses - Details regarding existing retail tariff structure, consumer base etc. - Business forecast. <p>(vi) <u>Letter of consent</u>: The bidding documents should also contain signed letters (“Letter of Consent”) by each participating distribution licensee, stating that the entire bid documents has been reviewed and each key element of the bid documents is agreed to.</p>	<p>The distribution companies in India are relatively new, formed as a result of reform process. International bidder will have no Knowledge of track record of these new distribution companies and their credit worthiness. Though, the bidders are expected to make their own assessment of the credit worthiness of the procurers it would be advisable to give information regarding procurer’s financial/operational strengths. Therefore, RfQ should include requisite information giving clear picture of the financial strength of each procurer to meet his payment obligation for his share of power. The revelation is necessary right at the RfQ stage in order to get a good response and competitive prices.</p>
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Para 1.1.1.5	<ul style="list-style-type: none"> • Add the following (As suggested by KERC). “5. For Hydro Power Plants, obtaining of requisite hydrological, geological and seismological data required for preparation of DPR.” • Under item 3, the fuel linkage should be for the whole term of PPA (As suggested by PSERC) 	To bring it in line with Competitive Bidding guidelines of Gol.
2. <u>INFORMATION AND INSTRUCTION TO BIDDERS</u>		
2.1 Qualifying Criteria		
Para 2.1.1.2	<p>Para may be amended as follows:</p> <p>“Bidders or a member of the bidding consortium should have adequate technical competence and experience and adequate financial capability to execute the project”.</p>	The evaluation criteria in the RFQ stage provide for looking into financial capability of the bidders alone. However, it is felt that the technical competence and experience of the bidders or any member of the bidding consortium to execute the project is also a must.
Para 2.1.1.3 A (New)	<p>A new para 2.1.1.3 A may be introduced which should read as follows:</p> <p>“The bidder or a member of the bidding consortium must possess one of the following:</p> <ul style="list-style-type: none"> (iii) Experience of having set up at least two power projects of similar unit sizes, which are in operation for the last three years. (iv) Experience of executing at least two infrastructure projects (like construction of airport, Highway, Petroleum Refinery, steel plants etc.) of similar magnitude, along with an undertaking to execute the project through an EPC contractor having experience of having set up at 	As explained above.

	<p>least two power projects of similar unit sizes, which are in operation for the last three years.”</p> <p>(iii) In case the bidder is a trader and intends to provide contracted capacity through new generating station, then the promoter or the EPC contractor executing the project should possess experience of having set up at least two power projects of similar unit sizes, which are in operation for the last three years.</p> <p>In case the bidder intends to provide capacity from an existing generating station(s) then he would deem to have fulfilled this criteria.</p>				
Annexure- I Executive summary	The table may be modified as follows:				
	Sl. No.	Name/ Address of the Company	Role envisaged	Details of Experience and financial capability	

Draft RFP for long-term procurement under case-2

2. Information & instruction to bidders

Para 2.1.1.1	The last sentence of the para may be amended as follows: - “The Normative Availability or Normative Capacity Index ³ required to be met by the Bidder on an annual basis, for the purpose of recovery of annual capacity charges and calculating incentives, shall be 80%⁸. ”	The normative availability & normative capacity Index are also the basis for recovery of full annual capacity charges.
Para 2.1.1.2	The figure 80% in the sentence may be changed as 80%⁸.	The figure of 80% is an example as clarified in foot note 8 of the document.
Para 2.1.1.3	In the last sentence, the words “short listed bidder” may be replaced with the word “ selected bidder ”.	
Para 2.1.1.5	The last sentence may be deleted.	As per the scheduling procedures in place, a Procurer can not give a schedule more than the Declared Capacity of his generator even if the Declared Capacity is below the Normative level.
Para 2.10.1.5	“Volume II” should be replace with “ Volume I ” (as per KERC).	Typographical error.
2.12 Bank Guarantee		
Para 2.12.1.1	The bank guarantee should be unconditional and irrevocable (As suggested by TNERC).	To protect the interest of procurer.
Para 2.12.1.2	The period of release of Bank Guarantee may be increased from 30 days to 75 days (As suggested by RERC).	In case the selected bidder does not sign the PPA in 60 days then the

		second lowest could be selected.
Para 2.12.1.5	<p>Following may be added:</p> <p>“Failure to sign PPA within 60 days from the date of letter of award, unless the date of signing is extended with mutual consent.”</p>	Failure to sign PPA within 60 days from the date of letter of award is one of the condition for forfeiture of bank guarantee.
3. Evaluation Criteria		
Para 3.1.1.1	<p>Following corrections should be made:</p> <p>Step III should be made as step II Step IV should be made as step III Step V should be made as step IV</p>	Typographical error.
3.4 Step III- Financial Evaluation of Bids		
Para 3.4.3.4	In order to bring clarity to the evaluation criteria, a numerical example may be appended. The numerical example should depict the evaluation of escalable, non-escalable components of Capacity Charges and how the criteria of minimum to maximum ratio of 0.7 for Capacity Charge shall be applied.	

Comments on draft PPA : Case –2

Article 1: Definitions and Interpretations

Bid	It should mean the RFP (Request for Proposal) as submitted by a bidder and not as issued by the procurer.	
Commercial Operation Date or COD	Means in relation to a unit or a block, the date on which such unit or the block is declared commissioned or in relation to the project the date on which the project is declared commissioned by the successful bidder(s) after successful completion of commissioning tests for commercial operations.	This should refer to the actual COD and not the scheduled COD of units or the project.
Contracted Capacity	It should be net Contracted Capacity at the switchyard bus or at the interconnected point and not the gross capacity.	
Scheduled Date of Commencement of supply.	Means in relation to the contracted capacity or the part of the contracted capacity, the date(s) corresponding to the date of commencement of supply quoted in the RFP (Request for proposal).	Definition should be added.
Scheduled Commercial Operation Date or Scheduled COD	Means in relation to a unit or a block, the date on which such unit or the block is expected to be declared commissioned for commercial operation or in relation to a project, the date on which the project is expected to be declared commissioned for commercial operation after successful completion of commissioning test corresponding to the schedule date of commencement of supply.	Definition should be added.
Scheduled Connection Date	It may be linked to scheduled COD and scheduled date of commencement of supply instead of scheduled date of synchronization.	Scheduled COD date shall be more relevant.
Scheduled Synchronization Date	Means in relation to a unit or the block, the date, which may be maximum of 180 days in case of coal based station and maximum of 30 days in case of combined cycle station prior to the scheduled COD of the respective unit or the block.	

REB	The definition may be replaced with definition of RPC.	Act, 2003 provide for RPC instead of REB.
Para 4.4.2	In line with clause 4.10 of Competitive Bidding Guideline, provision for third party sale in case of default in payment by the procurer should be added.	
Para 4.5.1	Add a provision (c) "The seller is unable to commence the supply from an existing station because of Force Majeure Event".	
Para 14.1	The capacity in words is written as ninety two percent whereas the same in figures is written 90%. This anomaly needs to be corrected.	
Miscellaneous	Any reference to CTU may be followed by "STU" and any reference to RLDC may be followed by SLDC, where ever necessary, in the bid documents and the PPA.	