

Central Electricity Regulatory Commission

Ground Floor, Chandernagore Building,
36, Janpath, New Delhi – 110 001

No. 2/23(11)/2014/Adm/CERC

Dated, the 23 May 2014

Subject : Quotations invited for “Engagement of consultants to undertake thorough review of the Conduct of Business Regulations” by Central Electricity Regulatory Commission

Central Electricity Regulatory Commission proposes to engage consultants to undertake thorough review of the Conduct of Business Regulations on time bound manner. The Terms of Reference for the proposed assignment including format of application are enclosed.

2. Sealed quotations are invited from the reputed consultants for the above purpose. Two separate sealed bids clearly marked as “ technical” and “Financial” are required to be submitted which may be placed in one outer envelope clearly mentioning in bold letters on top of envelop “ **Quotation for engagement of Consultants to undertake thorough review of the Conduct of Business Regulations**”. The bids are to be addressed to Shri P. Ramamoorthy, Assistant Secretary (P&A), CERC so as to reach by **15.00** hrs on Monday, the **16th June, 2014**. Technical bids will be opened by the Tender Opening Committee, CERC on Monday, the **16th June, 2014** at **16.00 hrs** for preparing the list of bidders. Bidders may send their authorized representatives to note the name and number of bidders at the time of opening bid.

3. It may kindly be noted that the proposal would be evaluated by a Committee to be constituted by CERC. Selection of the Agency will be based on the criteria mentioned in TOR. In the first stage, “Technical “evaluation will be done by the Committee based on the parameters as mentioned in the TOR. The “Financial” bids of only technically qualified bidders will be opened.

(P. Ramamoorthy)
Assistant Secretary (P&A)
Tel: 2375 3921

Encl : As above

TERMS OF REFERENCE

Assignment to undertake thorough review of the Conduct of Business Regulations

The Central Electricity Regulatory Commission (here in after referred as the Central Commission) was established under Section 3 of the Electricity Regulatory Commissions Act, 1998 (Act 14 of 1998). In exercise of the powers conferred by Section 55 of the Electricity Regulatory Commissions Act, 1998, the Central Commission had notified the CERC (Conduct of Business) Regulations, 1999.

2. The Electricity Act, 2003 (2003 Act) came into force with effect from 10 June 2003 and the Central Commission is presently functioning under Section 76 of the 2003 Act. The functions of the CERC as defined in Section 79 of the 2003 Act are extracted here under:

Functions of Central Commission: The Central Commission shall discharge the following functions, namely:-

- (a) To regulate the tariff of generating companies owned or controlled by the Central Government;
- (b) To regulate the tariff of generating companies other than those owned or controlled by the Central Government specified in Clause(a), if such generating companies enter in to or otherwise have a composite scheme for generation and sale of electricity in more than one state;
- (c) To regulate the inter-state transmission of electricity;
- (d) To determine tariff for inter-state transmission of electricity;
- (e) To issue licenses to persons to function as transmission licensee and electricity trader with respect to their inter-state operations;
- (f) To adjudicate upon disputes involving generating companies or transmission licensee in regard to matters connected with clauses (a) to (d) above and to refer any dispute to arbitration;
- (g) To levy fees for the purpose of this Act;
- (h) To specify Grid Code having regard to Grid Standards;
- (i) To specify and enforce the standards with respect to quality;
- (j) To ensure continuity and reliability of service by licensees;
- (k) To fix the trading margin in the inter-state trading of electricity, if considered necessary;
- (l) To discharge such other functions as may be assigned under this Act."

3. Section 178 of the 2003 Act provides with the powers to the Central Commission by notification, to make regulations consistent with the Act and the rules to generally carry out the provisions of the said Act. In exercise of the said powers, the Central Commission had amended the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 as follows:

- (a) The corrigendum published in Part III, Section 4 of Gazette of India (Extraordinary) dated 31 May 1999.
- (b) Central Electricity Regulatory Commission (Conduct of Business) (First Amendment) Regulations, 2000 published in Gazette of India (Extraordinary) Part III, Section 4 on 10 May 2000.
- (c) Central Electricity Regulatory Commission (Conduct of Business) (First Amendment) Regulations, 2002 published in Gazette of India (Extraordinary) Part III, Section 4 on 9 December 2002
- (d) Central Electricity Regulatory Commission (Conduct of Business) (Amendment) Regulations, 2009 published in Gazette of India (Extraordinary) Part III, Section 4 on 28 May 2009

4. The Conduct of Business Regulations specified under the Electricity Regulatory Commission Act, 1998 contain chapters on tariff determination and grant of transmission license. These provisions are no more required as specific regulations have been made by the Central Commission for tariff determination and licensing. Moreover, the Conduct of Business Regulations need to visualize the requirements of the Electricity Act, 2003. In addition to this, the Appellate Tribunal for Electricity in some of its judgments had directed the Central and the State Regulatory Commissions to consider framing of regulations as regards the procedure for *suo motu* proceedings, time frame for disposal of petitions etc., With the complexities of the issues pertaining to filing/rejection of petitions, (including e-filing under Regulatory Information Management System-RIMS) completion of pleadings, conduct of proceedings before the Commission, hearing, quorum of the Commission, public notices, appearance of parties/consumer associations, time bound disposal of cases etc., there is a need to relook at the existing provisions in the Conduct of Business Regulations, 1999 and to undertake a comprehensive review of the said regulations to bring it in tune with the requirements of the 2003 Act and to address the procedural difficulties faced by the Central Commission in transaction of its business.

5. In the above background, the CERC has felt the need for engaging Consultant in accordance with the CERC (Appointment of Consultants), Regulations, 2008 to undertake thorough review of the Conduct of Business Regulations, 1999.

Scope of Work

6. The Consultant shall be required to undertake the following activities:

- (a) To examine and review the provisions of the existing Conduct of Business Regulations, 1999 keeping in view the provisions of the 2003 Act, the Policy and the Rules specified by the Central Government, and the Regulations notified by the CERC and the State Commissions;

- (b) To consider the provisions of the Civil Procedure Code, the Limitation Act, the General Clauses Act, Contract Act etc in order to provide for appropriate provisions in the Conduct of Business Regulations regarding limitation for filing of different types of petitions/applications, particularly the limitation for claims/counter claims by parties and other procedural aspects;
- (c) To consider the observations, if any, on the judgments of the Supreme Court/High Court/Appellate Tribunal for Electricity etc regarding the procedure for Conduct of Business by the Commission;
- (d) To consult the different divisions of the CERC for inputs on various issues;
- (e) To suggest measures/methods to make the new regulations consistent with the RIMS modules;
- (f) Drafting of Conduct of Business Regulations.
- (g) And such other works as may be entrusted in relation to the task undertaken.

7. Nature and duration of Assignment

- (i) The assignment/task shall be completed by the Consultant within a period of six months from the date of award of consultancy. The Consultant shall depute expert (s) to the Commission's office as and when the Commission so requires.
- (ii) The assignment/task shall comprise of the following items of work to be completed as per the time frame indicated and the Consultant will be required :-
 - (a) To submit weekly report of the progress of the assignment from the date of signing of agreement to CERC;
 - (b) To Interact with officials of CERC and submit presentation as regards the approach /methodology adopted towards framing of the Conduct of Business Regulations, at the end of one month from date of award of assignment of task;
 - (c) To submit draft Regulations along with Explanatory Memorandum followed by presentation of the same by the end of two months from the date of award of assignment;
 - (d) To submit draft Regulations along with Statement of Reasons (SOR) after considering the comments of parties/stakeholders during the public hearing; (Two months)
 - (e) To submit final draft of the Conduct of Business Regulations with SOR after necessary additions/alterations after interaction with Commission/officials of CERC. (Two months)
 - (f) To adhere to any other instructions of the Commission/Officials of CERC within the scope of the assignment.

8. Qualification Criteria

The Consultant should be professionally qualified having an experience of at least five years in undertaking projects of similar nature and should be well conversant with the provisions of the various Acts, Rules/Regulations /Policies of the Central/State Government. The Consultant should also be familiar with the procedures/proceedings before the High Courts, Supreme Court, Appellate Tribunals and various other regulatory bodies in India, with in-depth knowledge of the Electricity Act, 2003 and the various issues arising in the electricity sector. *(The Consultant should submit documentary evidence of having handled similar projects, qualification experience etc)*

9. Mode of payment

The consultant shall be paid as per the following schedules:

Sl. No	Stage	Percent of agreed amount
i)	Advance of the total fee of the study at the time of signing agreement/acceptance of the offer, subject to production of Bank guarantee for equal amount to be valid till the amount is to be absorbed in the amount payable to the Consultant.	10%
ii)	Presentation/submission of approach/methodology paper	20%
iii)	Submission of the draft COB Regulations with Explanatory Memorandum	20%
iv)	Submission of the draft COB Regulations with Statements of Reason (SOR) after hearing	20%
v)	Submission of Final COB Regulations with SOR after interaction with officials/CERC	20%
vi)	On satisfactory completion and acceptance of the final COB Regulations with SOR by CERC	10%

10. Termination of contract

At the option of the CERC:

- (i) Without any notice: The assignment may be terminated by the CERC, any time, with immediate effect, under any of the following circumstances:
 - (a) If it has come to notice that the consultant/professional expert has been convicted for an offence involving moral turpitude or unethical professional practices.
- (ii) With one month notice: The assignment may be terminated by the CERC, under any of the following circumstances, by giving one month's notice and after providing an opportunity to the consultant/professional expert:
 - (a) If it has come to the notice of the CERC that the consultant/professional has resorted to fraud or suppression of material information or submission of false information or unethical means to secure the assignment.

- (b) If it has come to the notice of the Commission that there is a material change in the circumstances of the Consultant based on which the assignment was awarded to the consultant/professional expert [e.g This clause may be used under circumstances such as fall in the net worth criteria, if any fixed for the selection of the consultant, cancellation of the practitioner's license by the professional body, forming the basis of the consultant's eligibility].
- (c) If the consultant/professional expert has failed, without any valid justification, to adhere to the time-frame specified by the CERC in the assignment.
- (d) If the consultant has violated any of the provisions of the agreement.

At the option of either parties

- (iii) Both the parties namely, the CERC and the Consultant have the option to terminate the assignment by giving a notice of three months or the equivalent remuneration in lieu thereof.

11. Application and Evaluation Criteria

- (a) The format of application is at **Annexure-I** and **Annexure-II**.
- (b) The Consultant is required to submit four (4) copies of bids for Technical offer (each of which will be treated as original) and one copy of Financial offer, duly sealed in separate envelopes.
- (c) Technical component will carry 70 % weightage and Financial component 30 % weightage.
- (d) The bids of the eligible bidders as per Clause 4 will be scrutinized by Consultancy Evaluation Committee (CEC) and shortlisted bidders will be called for interaction with the CEC and their technical performance shall be evaluated based on the following criteria:

12. Technical Parameters Weights

(i) The Consultants relevant experience for the assignment	30%
(ii) The quality of the methodology proposed	10%
(iii) The qualifications and experience of the key staff proposed	40%
(iv) Quality of presentation*	20%
Total	100%

* *The bidding firms/individual shall make a presentation before CERC on the proposed Approach and Methodology.*

- (v) The minimum qualifying marks in the Technical Evaluation may be 70 % of the total score for technical component.
- (vi) Only those bidders, who qualify technically as per the above Clause would be considered for Financial Evaluation.

DETAILED PROPOSAL FOR STUDY
(TECHNICAL)

Note: Four (4) copies of the proposal shall be submitted to Secretary, CERC.

I. GENERAL INFORMATION:

1. Title of the Proposed Assignment :
2. Type of Project: Basic/Applied :
3. Name and address of the Individual/
Organization/ Institution :
4. Name and Designation of the main Person :
5. Contact address of the main Person :
(e-mail/fax/telephone)
6. Net-worth/Turnover of the Organization/
Institution :

II. TECHNICAL SPECIFICATIONS:

7. (a) Department(s) of the organization/Institution(s) where the study will be carried out.
(b) Other Department(s), if any, which will collaborate in this study
8. Brief review of the state-of-the-art in the field (National and International).
9. Method/procedure.
10. Facilities available for the proposed work in the applicant's organization/institution
11. Previous experience of the proposer in this or related field
12. Biographical sketch of the Study Team
 - (i) Name
 - (ii) Designation
 - (iii) Date of Birth
 - (iv) Qualifications and Experience

(a) Academic Qualifications

Degree	University	Field(s)	Year

(b) Experience

Institution	Topic of work done	Period

(v) Field of major interest

(vi) Additional information (if any)

13. Capacity to impart training/transfer of knowledge

DETAILED PROPOSAL FOR ASSIGNMENT
(FINANCIAL)

I. GENERAL INFORMATION:

1. Title of the Proposed Assignment :
2. Type of Project: Basic/Applied :
3. Name and address of the Individual/
Organization/ Institution :
4. Name and Designation of the main Person :
5. Contact address of the main Person
(e-mail/fax/telephone) :
6. Net-worth/Turnover of the Organization/
Institution :
7. Certificate of authorization in case of Institutes/other organizations (to be submitted).

II. FINANCIAL SUPPORT:

8. Amount of grant proposed for :

Component	Basis	Amount (in Rs.)
(i) Consultat charges-		
(a) Consulting service fees		
(b) Consultants Travel and Per Diem		
(c) Publication costs		
(d) Misc./Others (if any)		
Total		

(Rupees _____)

Signature of the Principal Investigator/
Head of the Study Team