

**Queries and Response to Terms of Reference  
for “Empanelment of Consultants for providing inputs for tariff determination  
by the Central Electricity Regulatory Commission”**

(Response of queries received by 1800 hrs on 5.10.2015)

Sr. No.	Query	Response
1	<p><b><u>Clause 1.6</u></b></p> <ul style="list-style-type: none"> <li>As per our understanding, the relevant regulations for the assignment are (i) ‘Terms and Conditions of Tariff Regulations, 2009, (ii) ‘Terms and Conditions of Tariff Regulations, 2014. Please clarify if petitions filed under this regulation only are under the scope of this assignment.</li> </ul>	<ul style="list-style-type: none"> <li>The clause 3.2.1 of the Terms of Reference (TOR) defines the petitions covered under the scope of this assignment.</li> </ul>
2	<p><b><u>Clause 3.0</u></b></p> <ul style="list-style-type: none"> <li>CERC is requested to clarify whether preparation of the tariff order is also a part of the assignment of the scope is limited only to analysis of the petition and preparation of ARR/True up</li> </ul>	<ul style="list-style-type: none"> <li>The clause 3.2 of the Terms of Reference (TOR) provides details of what the consultant has to do as part of this assignment. .</li> </ul>
3	<p><b><u>Clause 3.1</u></b></p> <ul style="list-style-type: none"> <li>We would like to clarify if the true-up petition 2009-14 and tariff petition for 2014-19 shall be counted as two separate petitions.</li> </ul>	<ul style="list-style-type: none"> <li>Proviso marked with “#” after clause 3.1 provides specific clarifications in this regard. Accordingly, the combined petition of “true up of 2009-14” and “2014-19 tariff fixation” will be treated as single unit petition. Main tariff petitions for 2009-14 and main tariff petitions for 2014-19 will be treated as separate petitions.</li> </ul>

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4	<p><b><u>Clause 3.2.2(i)(a)</u></b></p> <ul style="list-style-type: none"> <li>As per our past experience from projects related to tariff filings/orders, there can be several rounds of scrutiny /evaluation/technical validation with the petitioner. It is our recommendation that for such tariff petitions the timing and costing should be recompensed accordingly from time to time.</li> </ul>	<ul style="list-style-type: none"> <li>Bidder has to take into account these factors based on their assessment. However, no additional compensation shall be entertained in this regard.</li> </ul>
5	<p><b><u>Clause 3.2.2(i)(b)</u></b></p> <ul style="list-style-type: none"> <li>Please clarify whether the Commission would collect the additional information from the petitioners and provide it to consultants for analysis or the consultants themselves would be responsible for collecting the required information.</li> </ul>	<ul style="list-style-type: none"> <li>The scope of work defined for the consultant does not provide for information to be collected by the consultant directly from the petition.</li> </ul>
6	<p><b><u>Clause 3.2.2(iii)(a)</u></b></p> <ul style="list-style-type: none"> <li>As per our understanding, the consultant shall prepare its analysis based on the filings of the petitioner and consultant is not responsible for the validation of technical and financial information provided by the petitioner. Please clarify.</li> </ul>	<ul style="list-style-type: none"> <li>The consultant shall have to analyze the technical and financial information submitted by the petitioner as required under the relevant Tariff Regulations and prudent financial judgment.</li> </ul>
7	<p><b><u>Clause 3.3</u></b></p> <ul style="list-style-type: none"> <li>The bidder understand that the Commission proposes to engage a maximum of 4 consultants and the approximate number of petitions to be assigned to each consultant is likely to be in the range of 75-100</li> </ul>	<ul style="list-style-type: none"> <li>As per clause 3.3 of the TOR, each consultant is likely to be assigned the petitions in the range of 75-100 petitions.</li> </ul>

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	petitions each. May please confirm.	
8	<p><b><u>Clause 3.4</u></b></p> <p>1) Please clarify whether same rate would be applicable for tariff petition /true up petition of all types of generation/transmission projects or consultant is required to quote separate for each type of project.</p>	<ul style="list-style-type: none"> <li>As per clause 3.4 of the TOR, the consultant has to quote unit rate per petition for completion of work related with each petition. Separate rate will not be entertained and the offer is liable to be treated as non responsive.</li> </ul>
	<p>2) The Commission has sought a quoted “rate per petition” for completion of each petition. However, if Para 4.2.1 is referred, the Commission itself recognizes that the magnitude of work involved would vary between petitions for generation and transmission. It is also evident that some petitions would be for true-up only while some may be composite consisting of both true up (2009-14) and tariff determination (2014-19). In such a case, the bidder requests that different rates for transmission and generation business may be invited by the Commission.</p>	<ul style="list-style-type: none"> <li>The reply to this query is the same as reply to query No. 8(1).</li> </ul>
9	<p><b><u>Clause 4.1</u></b></p> <ul style="list-style-type: none"> <li>As the rate is to be specified on a per petition basis it is our understanding that for certain tariff petitions, wherein submission of data/additional information delayed, the work could exceed the time period of one</li> </ul>	<ul style="list-style-type: none"> <li>Clause 4.2.2 and Standard Agreement provides for time extension which will be considered on case to case basis by CERC.</li> </ul>

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	<p>year. Please clarify the treatment of contract in such cases.</p>	
10	<p><b><u>Clause 4.2</u></b></p> <p>1) Based on our past experience from projects related to tariff filings/orders, the timelines mentioned in the ToR for various activities seem very specific and ambitious. We believe that depending upon the availability of information and number of evaluation/technical validation sessions held, the effort required in each of the petition may vary significantly. Therefore, we recommend that the commission define a range of timelines instead of specific number of days within which each milestone is to be completed. Also the timelines for various types of tariff petitions should vary depending upon whether the project is of :</p> <ol style="list-style-type: none"> <li>i) Tariff petitions or true up</li> <li>ii) Generation or transmission</li> <li>iii) Existing or new plant</li> </ol>	<ul style="list-style-type: none"> <li>• The timeline of various activities has been specified based on the prudent assessment of work involved and are appropriate. Further, as per clause 4.3 of the TOR, the petitioner shall have to deploy adequate and appropriate number of professionals/manpower to work at CERC on a daily basis to ensure the deliverables commensurate with the timeline and requirements</li> </ul>
	<p>2) Based on our past experience from projects related to tariff filings/orders, we believe that sometimes delays can occur due to unavoidable or uncontrollable circumstances. Therefore a penalty of 1% per day seems on the higher side and we recommend reducing this penalty amount. Also please clarify if the penalty amount will be of the</p>	<ul style="list-style-type: none"> <li>• The applicability of penalty amount is clearly provided in clause 4.2.2 of the TOR.</li> </ul>

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	contract amount per petition or of overall payments.	
11	<p><b><u>Clause 4.3</u></b></p> <p>1) It is requested to clarify whether the consultant has to physically present in CERC during the entire contract period or only during the time, the consultant is assigned a petition to analyze. It is also requested to clarify whether the consultant can work from his local office and be present in the Commission as and when required?</p>	<ul style="list-style-type: none"> <li>• Clause 4.3 of TOR provides the consultant to deploy adequate manpower as per requirements to ensure the timely deliverables.</li> </ul>
	<p>2) Please clarify whether the Commission requires the consultant to be stationed at the CERC permanently or operate from the CERC office on a need to need basis.</p>	
12	<p><b><u>Clause 5.1</u></b></p> <p>1) It is submitted that single assignment with a State Regulatory Commission may include issuance of number of orders during the control period. Accordingly, we request to consider number of orders in which the firm has assisted SERCs instead of number of assignments. Also, we suggest to include petition filed with the State Electricity Regulatory Commissions with respect to the generation and transmission projects/ utilities to be included for</p>	<ul style="list-style-type: none"> <li>• The relevant assignments, as required under clause 5.1 of TOR, executed for the regulatory Commission as well as those executed on behalf of the generating companies/transmission licensees/Distribution licensees will be considered to meet the eligibility requirements.</li> </ul>

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	meeting the eligibility criteria as the same require similar analysis/ skillset by the firm/ team.	
	2) The Bidder should have proven experience in providing consultancy services in the area of tariff petition analysis and its evaluation in accordance with the provisions of the Electricity Act, 2003, Tariff policy and the relevant regulations of the Commission. The Bidder should have experience of analysis and evaluation of <i>at least one tariff petition</i> for determination of ARR and retail supply tariff for distribution and retail sale of electricity on behalf of any State Electricity Regulatory Commission in India.	<ul style="list-style-type: none"> <li>• Number of assignments required for the purpose of eligibility would be as per clause 5.0 of the TOR.</li> </ul>
	3) CERC is requested to clarify whether the experience of a consultant in supporting generation/ transmission/ distribution utilities involving regulatory support in terms of preparation of ARR / Tariff Petition and defending the same before CERC /SERC would be considered under the said clause.	<ul style="list-style-type: none"> <li>• The reply to this query is the same as reply to query No.12(1).</li> </ul>
	4) CERC is also requested to clarify the assignments required to be submitted in the areas of the following: <i>“analysis of tariff order/regulations related to thermal, hydro generation and transmission tariff”</i>	<ul style="list-style-type: none"> <li>• As per clause 5.1 of the TOR.</li> </ul>

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13	<p><b><u>Clause 5.2</u></b></p> <p>1) It is requested that a firm may be allowed to form a consortium to meet the requirement of this clause. Is Association / Consortium among consultants allowed ?</p> <p>2) It is requested that to have flexible in team to be deputed, the last provision of this clause may be modified as follows: “The team should consist of atleast one graduate in Engineering, One graduate in Law and one CA/ICAI(Cost)/ CFA/MBA(Finance) / MBA(Power)”</p> <p>3) Seeing the quantum of job, we request you to kindly allow consortium</p> <p>4) We request for inclusion of MBA (Finance) as the qualification of one member which shall have similar capability for understanding the financial issues required for analysis of petition.</p> <p>5) It is requested to CERC to specify the number of resources required along with their educational qualification and experience. Also, the marks allocated</p>	<ul style="list-style-type: none"> <li>• Consortium/Association among consultants is not envisaged as per TOR.</li> <li>• As per clause 5.2 of the TOR.</li> <li>• The reply to this query is the same as reply to query No.13(1).</li> <li>• The reply to this query is the same as reply to query No.13(2)</li> <li>• As per clause 4.3 and 5.0 of TOR. Weights to qualification and experience are specified in clause 10 of TOR.</li> </ul>

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	for each resource should also be provided.	
	6) Hence, it is humbly requested to relax condition of having all the members of the team to be full time employees of the firm and allow employees of consortium members / joint venture partners or individual experts associating with the bidding firm to be part of the team. This will help in increasing the competition which would be beneficial for the Commission.	<ul style="list-style-type: none"> <li>• The reply to this query is the same as reply to query No.13(1).</li> </ul>
	7) As per our understanding of the project, the consultant is to assist the Commission on the tariff petitions from regulatory and financial perspectives only. Consultant cannot provide legal advice to the Commission on the tariff petitions in case of litigations. Please clarify. We request the Commission to include MBA Finance to the list of CA/ICAI(cost/CFA.	<ul style="list-style-type: none"> <li>• The reply to this query is the same as reply to query No.13(2)</li> <li>• Legal advice of consultants is not required in case of litigation after the tariff order is issued. But the consultant should have the necessary legal expertise to deal with legal issues raised in the tariff petitions.</li> </ul>
	8) A clause should be added to the agreement/ToR in order to allow consultant to form consortium so as to bring legal expertise to the team.	<ul style="list-style-type: none"> <li>• The reply to this query is the same as reply to query No.13(1).</li> </ul>
14	<p><b><u>Clause 5.3</u></b></p> <p>1) We request to relax the condition for the legal member as it is not possible for firms to have lawyers with experience in electricity related matters as their full</p>	<ul style="list-style-type: none"> <li>• As per clause 5.3 of TOR and as per reply to query No. 13(7).</li> </ul>



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	time employee.	
	2) Onboarding quality legal experts on a full time basis for a consulting firm may not be feasible. It is requested that an Association with a Legal experts may be allowed.	<ul style="list-style-type: none"> <li>• The reply to this query is the same as reply to query No.13(1) and as per clause 5.2 and 5.3 of TOR.</li> </ul>
	<p><b><u>Clause 4.2.1</u></b> 1) Schedule completion should be for number of working days .</p>	<ul style="list-style-type: none"> <li>• It will be a number of working days.</li> </ul>
	<p><b><u>Clause 6.1</u></b> 1) Please clarify the conditions for release of the 10% payment for the completed work.</p>	<ul style="list-style-type: none"> <li>• The payment withheld will be released only after satisfactory completion of the assignment by the consultant.</li> </ul>
	<p>Payment for the work for anticipated petitions as per schedule of work: The consultant shall submit a status report on completion of all the deliverables ( as per clause 4) for each petition assigned to him on the first day of each month. On approval of status report by the competent authority, the consultant shall be made payment on monthly basis as per the accepted rate in respect of petitions completed subject to withholding of 10% payment of completed work”. The Commission is requested to elaborate what the payment milestones and how</p>	<ul style="list-style-type: none"> <li>• Payment will be done on completion of all the deliverables as per TOR</li> </ul>

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	the payment milestones would be triggered?	
15	<p><b><u>Clause 7 Conflict of Interest</u></b></p> <p>1) While we have assisted firms like NTPC, DVC, etc. in matters other than tariff in the past, there are no current assignments which shall have bearing on the tariff determination under the current assignment. Therefore, we request you to modify the undertaking only with respect to ongoing assignments which shall have direct bearing on the tariff determination process</p>	<ul style="list-style-type: none"> <li>• Conflict of interest will be in relation with the present/ongoing assignments. However, the bidder has to disclose /notify CERC about possible or potential conflict of interest which may result from any of the assignments/activities as per clause 7 of TOR read with the clause (iv) of Annexure III. If the consultants find that any petition assigned to them is conflicting with their ongoing/present assignments directly or indirectly, they will e notify the same to the Commission immediately.</li> </ul>
	<p>2) It is submitted that Feedback infra is already supporting HPPTCL for defending the two petitions for Inter – State Transmission lines before CERC. It is thus requested to clarify whether the same assignment would fall under Conflict of Interest or not.</p>	<ul style="list-style-type: none"> <li>• As per Annexure III of the TOR, this will be covered under conflict of interest.</li> </ul>
	<p>3) While the ToR states that the consultant is required to disclose through an undertaking the details of current assignments that can cause conflict of interest, the Annexure III requires consultant to give a blanket undertaking that consultant is not involved in any such assignment. There is no provision of disclosing information regarding such assignments in the</p>	<ul style="list-style-type: none"> <li>• The reply to this query is the same as reply to query No.15(1). Any audit of account will not be treated as conflict of interest.</li> </ul>

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	<p>Annexure of proposal to be submitted</p> <p>While we would be happy to share information for all such assignments to the Commission, we request the Commission to not disqualify a consultant based on an individual assignment with a particular client. Petitions causing such conflict of interest can be allocated to other consultants selected for the assignment to maintain the objectivity of the project. Similar approach has been adopted by MERC in its past assignments. Please clarify.</p> <p>Alternatively it may happen that the consultant is auditor of the books of account for a private company which is filing a petition to CERC. We would request the Commission to please clarify if such cases would be treated as conflict of interest or not.</p>	
16	<p><b><u>Clause 10(b)</u></b></p> <ul style="list-style-type: none"> <li>• Whether the soft copy is required to be submitted only for the technical bid or for the financial bid as well.</li> </ul>	<ul style="list-style-type: none"> <li>• Only for technical bid.</li> </ul>
17	<p><b><u>Clause 11.1</u></b></p> <ul style="list-style-type: none"> <li>• We believe that since each consultant would bring in different level of experience and man power skills to the project, the process wherein every L2, L3 and so</li> </ul>	<ul style="list-style-type: none"> <li>• As per clause 11.1 of the TOR, the bidders matching with the financial bid of L1 bidder would be considered as successful bidder.</li> </ul>

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	<p>on are asked to match the L1 bid, may not be appropriate. We request the Commission to revise this criterion. Also please clarify if the L2 L3 and so on bidders would have the right to refusal to match the quote of L1 bidder</p>	
18	<p><b><u>Clause 11.3</u></b></p> <ul style="list-style-type: none"> <li>We request the Commission to provide an indicative schedule and type of petitions that would be allotted to consultants so as to help us better estimate the time and effort required for the assignment. (PwC)</li> </ul>	<ul style="list-style-type: none"> <li>Clause 3.3 of TOR provides indicative number of petitions. Type of petitions would be allotted to consultants are specified in clause 3.1 of TOR as 75-100 during the period of assignment. Thus, the approximate number of the petitions could be completed in the range of 15-20 in a month.</li> </ul>
19	<p><b><u>Annexure III, IV and V</u></b></p> <p>1) The said annexure are not provided in the tender document. CERC is requested to provide the same.</p>	<ul style="list-style-type: none"> <li>These annexure are already provided with TOR (<a href="http://www.cercind.gov.in/2015/whatsnew/Annex.pd">http://www.cercind.gov.in/2015/whatsnew/Annex.pd</a>)</li> </ul>
	<p><b><u>Annexure I</u></b></p> <p>2) As per our understanding at any given point of time, the number and type of petitions allocated to a consultant may vary significantly. Therefore defining fixed team members that are going to work on the project at all times or defining their man-hours may be difficult. We suggest that consultant can provide the following information</p>	<ul style="list-style-type: none"> <li>As per TOR</li> </ul>

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	<p>regarding the team members –</p> <p>Structure of team members that would work on the project at any given point of time. For ex: 1 project director, 1 project manager and 2 team members.</p> <p>A pool of team members that can be made available for the project depending upon the requirement at that moment. For ex: for the position of project manager, two or three names could be suggested which could work on the project based on their expertise, availability and effort estimation required for a particular tariff petition.</p> <p>Alternatively multiple teams could be defined, and one of these teams could be chosen to implement an individual petition based on availability and expertise of the team.</p> <p>Also the pool of team members could change as and when new employees are added to the organization or some members leave the organization.</p> <p>Estimation of effort required in each petition. Committed man-hours could be defined per</p>	

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	<p>tariff petition or on a broad basis and not for the complete duration of the assignment.</p> <p>Please clarify.</p>	
20	<p>1) In order to bring all consultants on parity for determining the cost of service, request you to kindly put minimum number of team members to be deployed in CERC on full time basis.</p>	<ul style="list-style-type: none"> <li>• As per clause 4.3 of TOR.</li> </ul>

2. Any further queries/clarification with regard to above will not be entertained. The above responses issue with the approval of the competent authority.

(-Sd-)  
(M.M.Chaudhari)  
Asst Chief(Fin)