

CENTRAL ELECTRICITY REGULATORY COMMISSION

New Delhi

NOTIFICATION (DRAFT)

No.L- 7/1/0844(159)-CERC

Dated the , 2008

In exercise of powers conferred under Section 178 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, and after previous publication, 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, 2008.
- (ii) These shall come into force on the date of their publication in the Official Gazette.

2. Definitions

(1) In these regulations unless the context otherwise requires –

(a) "Chairperson" means, the Chairperson of the Commission;

(b) "Commission" means the Central Electricity Regulatory Commission referred to in Section 76 of the Electricity Act, 2003 (36 of 2003);

(c) "Consultant" includes any individual, firm, body or association of persons, not in the employment of the Commission, who or which possesses or has access to any specialized knowledge, experience or skill;

(d) "Consultancy Evaluation Committee" hereinafter referred to as "CEC" means the committee constituted under Regulation 6 or, as the case may be under Regulation 7;

(e) "Secretariat" means secretariat of the Commission;

(f) "Secretary" means the Secretary of the Commission;

3. Scope of Work

(1) Consultants shall not normally be appointed for routine day-to-day work for which in-house facility is available.

(2) Consultants may be engaged for the following purposes, namely-

(a) providing expert advice on specific issues of relevance and interest to the Commission,

(b) conducting study of best practices, analyzing data, developing bench marks, or for any other similar purpose, and

(c) performance of tasks requiring experience and qualifications which are either not available within the Commission or, in the opinion of the Commission, the engagement of consultant shall be a more efficacious and efficient method of completing the task in terms of quality, cost, time or for any other consideration.

4. Period of engagement

Consultants shall be engaged for the minimum period and in no case engagement of consultant shall exceed a continuous period of three years.

5. Categorisation of Consultants

Consultants shall be categorized as:

- (a) Corporate consultants,
- (b) Individual consultants, and
- (c) Professional experts.

6. Corporate Consultants

(1) The Commission, on being satisfied that there is a need for availing consultancy services which, in its opinion, may be more appropriately provided by a firm, or a company or an association or body of persons, shall direct the Secretariat to prepare the terms of reference indicating the scope of the work, various deliverables, milestones and the schedule of payments linked to achievement of each milestone.

(2) The Chairperson shall constitute the CEC comprising the Secretary, Internal Financial Advisor, an officer having knowledge in the area of work for which the consultancy services are to be obtained and, if considered necessary, an external expert, as may be nominated by the Chairperson.

(3) The CEC shall, after necessary modification, if any, obtain approval of the Chairperson for the terms of reference for engagement of a corporate consultant.

(4) The CEC, shall decide the weightage to be allocated to each of the parameters for the purpose of evaluation of bids, allocating at least 70% weightage to technical proposal and obtain the approval of the Chairperson for the weightage proposed.

(5) After finalizing the weightages under clause (4), the CEC shall invite single stage bids, containing technical and financial proposals in separate sealed envelopes, through publication of notice in at least one newspaper and also on the Commission's website giving, as far as possible, a notice of not less than three weeks:

Provided that in matters of urgency, the period of notice may be reduced to less than three weeks but shall not be less than two weeks, as may be decided with the approval of the Chairperson.

(6) The CEC shall evaluate the bids through 'Combined-Quality-Cum-Cost-Based System' based on the pre-determined weightages allocated to each of the parameters:

Provided that the CEC shall not proceed with evaluation of bids, unless at least three valid bids have been received:

Provided that the condition of three valid bids may be relaxed with the prior approval of the Chairperson in case the adequate number of bids are not received.

(7) The corporate consultant shall be engaged after obtaining approval of the Chairperson.

(8) Notwithstanding anything contained in this regulation, in matters of urgent nature and involving financial commitment not likely to exceed Rs. ten lakh, the Commission may avail consultancy services of a corporate consultant on the basis of single sourcing.

7. Individual Consultants

(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 qualification and experience considered essential for an assignment may decide to engage an individual consultant and direct the Secretariat to prepare the terms of reference indicating the scope of the work, milestones to be achieved, the schedule of payments linked to achievement of each milestone and the experience and qualification required for obtaining consultancy services.

(2) The CEC shall be constituted with the approval of the Chairperson and shall be headed by a Member of the Commission to be nominated by the Chairperson and

shall include the Secretary, Internal Financial Advisor and an officer of the Commission having knowledge in the area of work for which consultancy services are to be obtained.

(3) The CEC shall after necessary modification, if any, obtain approval of the Chairperson for the terms of reference for engagement of individual consultant,

(4) The CEC shall call for applications through publication of notice in at least one newspaper and on the Commission's website giving, as far as possible, a period of at least three weeks for submission of applications.

(5) Based on the applications received, the CEC shall, by awarding marks for the educational qualifications and experience and the performance in interview, if any, held, prepare a panel of persons, indicating the order of merit, for appointment as consultant, having regard to, but not limited to, the following, namely,-

- (a) Academic background,
- (b) Experience,
- (c) Knowledge of the working environment such as language, culture, administrative system, and other relevant factors:

Provided that the CEC shall, while preparing the panel consider the profile of at least three candidates:

Provided further that the condition of three candidates may be relaxed with the prior approval of the Chairperson, if the responses from sufficient number of candidates are not received.

(6) The candidate (from the panel prepared by the CEC) approved by the Chairperson shall be engaged as individual consultant. The duration of engagement shall not exceed a continuous period of three years.

(7) Individual consultant shall be paid the following fees at the rates as may be decided at the time of engagement, namely, -

- (a) Retainership fee for the duration of engagement,
- (b) Consultancy Fee on completion of the specified milestones, and
- (c) Charges for out-of-pocket expenses.

8. Professional Experts

(1) The Chairperson, on being satisfied for the need, may decide to engage a professional for advice on an issue of urgent nature.

(2) On the Chairperson so deciding, the Secretariat shall formalize the proposal and prepare a list of not less than two professionals having the requisite expertise in the field, his willingness to accept consultancy work and the fee demanded by each of them.

(3) The Chairperson may approve the name of the expert for engagement as consultant on payment of such fee and on such other terms as may be considered appropriate:

Provided that the fee so decided shall not exceed Rs. ten lakh for an individual item of work.

9. Vacancy in Office of Chairperson

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In case of vacancy in the office of Chairperson, the powers exercisable by the Chairperson under these regulations, may be exercised by the senior-most Member of the Commission.

10. Repeal and Saving

(1) Save as otherwise provided in these regulations, the Central Electricity Regulatory Commission (Appointment of Consultants) Regulations, 1999 shall stand repealed from the date of commencement of these regulations.

(2) Notwithstanding such repeal, anything done or purported to have been done under the repealed regulations shall be deemed to have been done or purported to have been done under these regulations.

(Alok Kumar)
Secretary