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GOVERNMENT OF INDIA
Ministry of Power

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RESOLUTION

Tariff based Competitive-bidding Guidelines for Transmission Service

1. Preamble

Promotion of competition in the electricity industry in India is one of the key objectives of the Electricity Act, 2003 (the Act). Development of a transmission system is essential both for encouraging competition and for creating electricity markets. These guidelines are aimed at facilitating competition in this sector through wider participation in providing transmission services and tariff determination through a process of tariff based bidding.

Section 61 & 62 of the Act provide for tariff regulation and determination of tariff of generation, transmission, wheeling and retail sale of electricity by the Appropriate Commission. Section 63 of the Act states that –

“Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.”

These guidelines have been framed under the above provisions of section 63 of the Act. The specific objectives of these guidelines are as follows:

- Promote competitive procurement of transmission services.
- Encourage private investment in transmission lines.
- Facilitate transparency and fairness in procurement processes;
- Facilitate reduction of information asymmetries for various bidders;
- Protect consumer interests by facilitating competitive conditions in procurement of transmission services of electricity;
- Enhance standardization and reduce ambiguity and hence time for materialization of projects;
- Ensure compliance with standards, norms and codes for transmission lines while allowing flexibility in operation to the transmission service providers.

2. Scope of the Guidelines

- 2.1. These guidelines are being issued under the provisions of Section 63 of the Electricity Act, 2003 for procurement of transmission services for transmission of electricity.
- 2.2. The guidelines shall apply for procurement of transmission services for transmission of electricity through tariff based competitive bidding, through the mechanisms described in this notification and to select transmission service provider for a new transmission line and to build, own, maintain and operate the specified transmission system elements.
- 2.3. "Transmission line" has been defined in para 2(72) of the Electricity Act 2003 as all high pressure cables and overhead lines(not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station to another generating station or a substation, together with any step up and step down transformers, switch gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switch gear and other works.
- 2.4. Procurement of transmission services would include all activities related to survey, detailed project report formulation, arranging finance, project management, obtaining transmission license, obtaining right of way, necessary clearances, site identification, land compensation, design, engineering, equipment, material, construction, erection, testing and commissioning, maintenance and operation of transmission lines and/or substations and/or switching stations and/or HVDC links including terminal stations and HVDC transmission line. It will be in such a manner that the required transmission services as specified in the bid document are provided by execution of the project up to completion and commissioning and its subsequent maintenance and operation so that the facilities are available as per the target availability for recovery of full transmission charges fixed by the appropriate commission. For availability of transmission line below the target, subject to para 2.5 below, transmission tariff payable to the TSP will be in accordance with the appropriate regulation of the appropriate commission.
- 2.5. If the availability of the transmission line is below the norms prescribed by the CERC for six consecutive months the procurer of transmission service or the billing and accounting agency or the operator of the transmission system may seek revocation of transmission license as per the procedure laid down under the Electricity Act 2003 and in accordance with rule 5 of Electricity rules 2005.

3. Bid Process Coordinator (BPC)

- 3.1. The Bid Process Coordinator, herein after referred to as BPC, would be responsible for coordinating the bid process for procurement of required transmission services.
- 3.2. For procurement of transmission services, required for inter-state transmission, the Central Government shall notify any Central Government Organization/ Central Public Sector Undertaking to be the BPC. The BPC will be notified by the Ministry of Power and nomination of BPC will be for a period of three years at a time. It will be open for Ministry of Power to review the nomination of BPC at any time. For immediate implementation of these guidelines the Empowered Committee constituted as per the provisions of the "Guidelines for encouraging competition in development of Transmission Projects" will be the BPC till any other organization is nominated as BPC by the Ministry of Power.
- 3.3. For procurement of transmission services required for intra-state transmission, the appropriate State Government may notify any Organization/ State Public Sector Undertaking especially engaged for this purpose by the appropriate state government or BPC notified by the Central Government to be the BPC for the state.
- 3.4. All the expenditure incurred by the BPC in the process of selection of the investor in accordance with the provisions of these guidelines shall be recovered from the developer who is finally identified and assigned the task of developing that project. The amount to be recovered shall be indicated in the RFP document so that bidders can take that amount into consideration in the tariff to be quoted by them.

4. Preparation for inviting bids

- 4.1. The BPC shall prepare the bid documentation in accordance with these guidelines and obtain approval of the Appropriate Commission. Alternatively, the BPC can use the standard bidding documents notified by Ministry of Power. Standard Bid Documents in accordance with these guidelines will be notified by Ministry of Power within three months of the notification of these guidelines. Approval of the Appropriate Commission would be necessary if any material deviation is proposed to be made from the Standard Bid Documents.
- 4.2. Intimation shall be sent by the BPC to the appropriate Commission about initiation of the bidding process.
- 4.3. For location specific substations, switching stations or HVDC terminal or inverter stations the BPC or its authorized representative should facilitate the transfer of the project site to the successful bidder. The BPC or its authorized representative will also facilitate the successful bidder in acquisition of Right of Way.

5. Transmission Service Provider (TSP)

- 5.1. The successful bidder shall seek transmission license from the appropriate Regulatory Commission, if it is not a deemed licensee. After obtaining the license from the appropriate Regulatory Commission, the successful bidder shall be designated as the Transmission Service Provider, herein after referred to as the TSP.
- 5.2. The TSP would take-up execution of the transmission scheme so as to complete commission and operationalise the transmission line as per the specified schedule in the bid documents.

6. Recovery of Transmission Charges

- 6.1. Total charges for transmission of electricity by use of the transmission services provided by the TSP(s) selected through the bidding process as per these guidelines, payable to the TSP, shall be determined as specified in paras 7.1, 7.2, 7.3, 7.4 and 7.5 of these guidelines.
- 6.2. Recovery of transmission charges from the users of the transmission services such as State supply utilities, distribution companies, generation companies, traders, bulk consumers, etc., shall be done as provided in the “ Guidelines for encouraging competition in development of transmission Projects”

7. Transmission Charge Structure

- 7.1. For procurement of transmission services under these guidelines, transmission charges shall be paid and settled for each payment period (not exceeding one month). A transmission charge for providing transmission service and operation and maintenance required for the various transmission elements shall form the basis for bidding and evaluation. Tariff structure will have two components – one scaleable and the other non-scaleable. The scaleable component shall not be more than 15% of the non-scaleable component.
- 7.2. The BPC shall specify scheduled month of commercial operationalisation for the transmission line required for the transmission service and invite bids for the transmission charge.
- 7.3. A bidder can quote different annual tariff for various years within a variation band of maximum ten percent between two successive years. The variation band for every bid will be specified by the BPC while inviting bids.
- 7.4. The bidders shall quote annual tariff payable after commissioning till expiry of license period and the monthly tariff payable shall be annual tariff divided by 12.
- 7.5. Tariff shall be designated in Indian Rupees only. Foreign exchange risks, if any, shall be borne by the provider of transmission service.

7.6. Reasonableness of Transmission Charges:

Criteria to assess the reasonableness of transmission charges quoted by any bidder will be stated in the bid documents. BPC will assess the reasonableness of transmission charges. No bid will be accepted by the BPC if it finds after evaluation that none of the quoted transmission charges are reasonable. But this process of assessing the reasonableness will not limit the rights of the BPC to reject any or all the bids under any other provision of RFQ or RFP or combined bid.

8. Payment Security Mechanism

8.1. Adequate payment security shall be made available to the TSP by the user of transmission services being provided by the TSP. The payment security may constitute:

- (i) Letter of Credit (LC)
- (ii) Letter of Credit (LC) backed by credible escrow mechanism.

9. Bidding Process

9.1. For the procurement of transmission services under these guidelines, BPC may at its option either adopt a two-stage process featuring separate Request for Qualification (RFQ) and Request for Proposal (RFP) or adopt a single stage two envelope tender process combining the RFP and RFQ processes. The bid documents shall be prepared in accordance with para 4.1 of these guidelines.

9.2. RFQ or combined RFQ and RFP notice should be published in at least two national newspapers, website of the BPC and the appropriate Government and preferably in trade magazines also, so as to accord it wide publicity. The bidding shall necessarily be by way of International Competitive Bidding (ICB). For the purpose of issue of RFQ minimum conditions to be met by the bidder shall be specified in the RFQ notice.

9.3. BPC shall provide only written interpretation of the tender document to any bidder / participant and the same shall be made available to all other bidders. All parties shall rely solely on written communication and acceptances from the bidders.

9.4. Standard documentation to be provided in the RFQ shall include,

9.4.1. Definition of requirements, including:

- Details of location and technical specifications as may be applicable for each component of the transmission line ;
- Construction milestones to be specified by the bidders;

- Financial requirements to be met by bidders including, minimum net-worth, revenues, etc with necessary proof of the same, as outlined in the bid documents;

9.4.2. Proposed Transmission Service Agreement(TSA)

The TSP will enter into a Transmission Service Agreement (TSA) with the concerned utilities. These may include the utilities falling in the region where the load is located, any intervening region and the interregional transmission lines between the regions. The agreement should clearly indicate

- Risk allocation between parties;
- Inter -- utility allocation of transmission charges
- Force majeure clauses as per industry standards;
- Default conditions and cure thereof, and penalties;

The bid document for the concerned project shall provide a draft of proposed TSA.

9.4.3. Required Period of validity of offer of bidder;

9.4.4. The conditions as specified by the Appropriate Commission to be complied with by a person for being eligible to obtain a transmission licence shall be necessary conditions for RFQ and will be incorporated in the RFQ by BPC.

9.4.5. Other technical, operational and safety criteria to be met by bidder/TSP, including the provisions of the IEGC/State Grid Code, relevant orders of the Appropriate Commission, etc., as applicable.

9.4.6. The BPC may, at its option, require demonstration of financial commitments from lenders at the time of submission of the bids. This would accelerate the process of financial closure and delivery of transmission services for transmission of electricity;

9.5. RFP shall be issued to all bidders who have qualified at the RFQ stage. BPC may call a pre bid conference with all the developers who have sought documents for RFQ. In case the bidders seek any deviations and BPC finds that deviations are reasonable, the BPC may agree to deviation. The clarification/revised-bidding document shall be given to all who had sought the RFQ document informing about the deviations and clarifications. Wherever revised bidding documents are issued, the BPC shall provide bidders at least two months after issue of such documents for submission of bids.

9.6. Standard documentation to be provided by the BPC in the RFP shall include,

9.6.1. Specified target dates/months for commissioning and commercial operations and start of providing the transmission services.

- 9.6.2. TSA proposed to be entered with the selected bidder. The TSA proposed in the RFQ stage may be amended based on the inputs received from the RFQ bidders during the pre bid conference and it will be made available to all RFQ bidders. No further amendments shall be carried out in the TSA;
- 9.6.3. Bid evaluation methodology to be adopted by the BPC. The bids shall be evaluated based on monthly transmission charges for all components covered under the package as quoted by the bidder.
- 9.6.4. The RFP shall also specify the Discount Factor (DF) that would be used for evaluation of bids.
- 9.6.5. The RFP will also specify the bid bond as well as the project completion guarantee that the bidders will have to furnish.
- 9.6.6. The proposed indemnification agreement between the TSP and the utilities will also be provided along with the RFP. This indemnification will be applicable to both the TSP and the utilities from the zero date as specified in the RFP.
- 9.6.7. RFP will also specify the amount of contract performance Guarantee as percentage of estimated project cost that the TSP will have to furnish.
- 9.6.8. The RFP shall also specify the liquidated damages that would apply in event of delay in start of providing the transmission services.
- 9.7. Bid submission and evaluation
To ensure competitiveness, the minimum number of qualified bidders will be two.
- 9.8. Bid evaluation committee The BPC shall constitute a committee for evaluation of the bids with at least one member each from CEA and the concerned Regional Power Committees. The member from CEA shall have expertise in cost engineering of transmission projects.
- 9.9. The bids shall be opened in public and representatives of bidders shall be allowed to remain present.
- 9.10. The technical bids shall be scored to ensure that the bids submitted meet minimum eligibility criteria set out in the RFQ documents on all technical evaluation parameters. Only the bids that meet all elements of the minimum technical criteria set out in the RFQ shall be considered for further evaluation on the transmission charges bids.
- 9.11. The transmission charge bid shall be rejected if it contains any deviation from the tender conditions for submission of the same.

9.12. The bidder who has quoted lowest transmission charge as per evaluation procedure shall be considered for the award.

10. Arbitration

10.1. In case of any dispute regarding TSA or tariff, the same will be subject to jurisdiction of the appropriate Regulatory Commission under the provisions of the Electricity Act 2003.

11. Time Table for Bid Process

11.1. A suggested time-table for the bid process is indicated below. The BPC may give extended time-frame indicated herein based on the prevailing circumstances and such alterations shall not be construed to be deviation from these guidelines.

Event	Elapsed Time from Zero date
Publication of RFQ	Zero date
Submission of Responses of RFQ	45 days
Short listing based on responses and issuance of RFP	75 days
Bid clarification, conferences, Final clarification and revision of RFP	90 days
Technical and price bid submission	180 days
Short listing of bidder and issue of LOI	210 days
Signing of Agreements	240 days

11.2. A suggested time-table for the Single stage two envelope bid process is indicated below. The procurer may give extended time-frame indicated herein based on the prevailing circumstances and such alterations shall not be construed to be deviation from these guidelines.

Event	Elapsed Time from Zero date
Publication of RFP	Zero date
Bid clarification, conferences etc. & revision of RFP	60 days
Technical and price bid submission	120 days
Short-listing of bidder and issue of LOI	150 days
Signing of Agreements	180 days

12. Contract award and conclusion

12.1. Finally selected bidder shall make an application for grant of transmission license to the appropriate Commission within one month of selection.

- 12.2. The TSA shall be signed with the selected bidder consequent to the selection process in accordance with the terms and conditions as finalized in the bid document before the RFP stage.
- 12.3. The BPC shall make evaluation of bid public by indicating terms of winning bid and anonymous comparison of all other bids. All contracts signed with the successful bidders shall also be made public.
- 12.4. The final TSA along with the certification by the BPC shall be forwarded to the Appropriate Commission for adoption of tariffs in terms of Section 63 of the Act

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