

Detailed Expression of Interest Document

Expression of Interest (EOI) for

Empanelment of Firms / Institutions for various Legal tasks to be undertaken

1. INTRODUCTION

Maharashtra Electricity Regulatory Commission (MERC) was established on August 5, 1999 under the Electricity Regulatory Commission Act, 1998, a Central Act which was superseded by Electricity Act, 2003 (EA 2003). The Commission under Section 86 of the EA 2003 undertakes various functions, mainly determination of tariff for generation, transmission and wheeling of electricity, bulk or retail supply of electricity, as the case may be, within the State of Maharashtra; regulate electricity purchase and procurement process of Distribution Licensees; issue Licences for Transmission, Distribution, and Trading and promote cogeneration and generation of electricity from renewable sources of energy.

MERC intends to empanel professionally managed Legal/Solicitor Firms to assist the Commission for discharging its legal functions effectively for the tasks listed under Section 2.

2. List of Tasks proposed to be assigned :

List of the tasks proposed to be assigned to the Consultancy Firms / Institutions is as under:

1. Legal vetting of Draft Orders
2. Study of Judgments of the Appellate Tribunal for Electricity from a legal standpoint and advising the Commission on the desirability or otherwise of filing an appeal before the Supreme Court under Section 125 of the Electricity Act, 2003.
3. Defending the Commission's Orders before the Appellate Tribunal for Electricity and the High Court/Supreme Court
4. Providing Legal Advice/Opinion to the Commission as and when required.
5. Framing and resolving of legal issues related to deemed Distribution Licence status and conditions of licence applicable to appropriate Government companies defined under Section 14 of EA 2003.

3. Eligibility & Qualification criteria

The Legal/Solicitor Firm intending to empanel for such above mentioned tasks shall fulfill the following eligibility criteria and shall provide satisfactory proof regarding the same:

- a) Shall be Legal/Solicitor Firm which has majority of the proposed key resources being full time association of Lawyers/Solicitors and having proven records of accomplishment in the above areas with minimum two years experience in the similar areas of task listed under Section 2.
- b) The Legal/Solicitor firm shall be well acquainted with the Regulatory environment in the power sector, and functioning of Power Sector Utilities and possess experience in dealing with such similar matters on a wide range.
- c) Personnel of Legal /Solicitor Firm shall have relevant background / experience in Electricity Law pertaining to tasks which are to be performed including personnel having good exposure of appearing in Appellate Tribunal for Electricity/High Court/Supreme Court and shall be well versed with various Electricity Acts.
- d) Shall have adequate legal, administrative and financial capability to undertake such tasks as per terms of reference provided to them considering various steps to be performed from the inception to the completion within the time frame prescribed by MERC.
- e) The Firm shall furnish copies of certificate of registration/ agreement/articles of association, as the case may be, as service firm and PAN, and service tax registration.

4. Submission of EOI Bid and Bidding Procedure

4.1. The duly completed Bid as described below, in a sealed envelope, super- scribed "Empanelment of Legal Consultants" should be submitted so as to reach the office of the Commission on or before 16.00 Hrs on 21st February, 2014. In the event of the specified date for the submission of the bids being declared a holiday, the bids will be received up-to the appointed time on the next working day of Commission's office. Any bid received after the abovementioned deadline will be rejected and may be returned un-opened.

4.2. The Bid shall comprise of two parts, i.e. (i) Technical Offer, and, (ii) Financial Offer, as follows:

- (I) The Technical Offer, as per the format given at **Annexures – I, I - A, I - B, I - C, I - D and I - E.**, shall be submitted in triplicate (one original plus two copies of the Offer), sealed in an envelope which must be

clearly marked as “Empanelment of Legal Consultants. (Technical Offer)”

- II) The Financial Offer, as per the format given at **Annexure-II** -one original plus one copy of the Offer, shall be submitted, sealed in a separate envelope which must be clearly marked as “Empanelment of Legal Consultants” (Financial Offer)”

Note: Technical Offer and Financial Offer should be in two different envelopes marked as mentioned above. These two sealed envelopes should be submitted in a single large envelope / packet marked as mentioned in Para 4.1.

Basis of Bid Evaluation

(A) Technical Evaluation

- 4.3.** The bidder in addition to furnishing complete information in the Forms appended with the documents shall furnish a complete document on the proposed approach; methodology & work plan for handling the tasks assigned. The work plan shall include full justification for methodology to be adopted. An indicative time schedule for carrying out each component of the tasks is also to be indicated.
- 4.4.** The technical bid will carry maximum marks of 100, with Qualifying Minimum total score of 60 %. The Evaluation Committee nominated by the Commission shall evaluate the bids on the basis eligibility and qualification requirement as provided in Section 3 of this document. The response of the bidders will be evaluated as per following criteria:

Sr.No.	Particulars	Weightage
1	Experience of the bidder in Legal related assignments	30 %
2	Qualification and competency of the personnel	70 %

- 4.5.** The Evaluation Committee will identify suitable bidders based on evaluation of the technical bid and if considered necessary, may also call for technical discussion / presentations from the identified bidders. On the basis of the technical bids submitted and on the basis of discussions and presentations, if any, the bidders would be short listed. The financial bid of short listed / Technically Qualified bidders only will be opened for further evaluation.

(B) Financial Evaluation

- 4.6. Among the financial offers (monthly fees of consultants), the lowest offer(s) will be given a financial score of 100 and the others will be given pro rata scores.
- 4.7. A composite score (weighted average) of technical and financial scores will be worked for each Consultant / personnel. While calculating the composite score, the weightage shall be 60% for technical score and 40% for financial offer.
- 4.8. The selection of the Consultants shall be based on the highest scores.
- 4.9. MERC reserves the right to reject any/all the bids in part/or in full without assigning any reason.
- 4.10. The validity of the Empanelment of Consultancy Firms / Institutions, shall be for a period of three years, which can be extended by a further period of two years

5. Earnest Money Deposit:

The Technical Offer should be accompanied by an Earnest Money Deposit of Rs.50,000/- (Rupees Fifty Thousand only), in the form of a Demand Draft drawn in favour of 'Maharashtra Electricity Regulatory Commission', payable at Mumbai. The earnest money will be returned to the unsuccessful bidders, after appointment of the Consultant. Bids without the Earnest Money Deposit as above will not be accepted, and will be summarily rejected.

6. **Deviations:** The bidder must ensure that Technical and the Financial Offers submitted by him satisfy all the Terms and Conditions specified in the Tender specifications. In case of any deviations from the requirements of this Tender, the Bidder shall specifically bring out the same in a separate Sheet enclosed to the Technical Bid, entitled "Schedule of Deviations", and make a reference to the same in covering note of the Bid. In absence of any such schedule, it shall be deemed that the Bidder has no deviation, and Bidder shall be meeting all the requirements as per the Tender specifications. The Commission reserves the right to reject any bid, based on any deviation taken by the Bidder, or otherwise, without assigning any reason.

6.1 Any revision/correction in the Bid after opening of the Bids will not be allowed. Any such revision will render the Bid as non-responsive, and also result in forfeiture of Earnest money Deposit.

6.2 The bidder shall make in his bids such disclosures as may be required to ascertain that the bidder has no conflicting interest in undertaking the proposed assignment.

7. General Conditions of Contract:

7.1 **Security Deposit:** The successful bidder shall furnish a Bank Guarantee (as per the Format attached as **Annexure-III**) from a Nationalised Bank / Scheduled Bank, on a Stamp Paper of Rs.100/-, as Contract Security Deposit, for a value equal to Rs.5,00,000/- (Rupees Five Lakh only), valid for the entire period of the contract plus a period of three (3) months, to enable lodging of any claims, arising due to failure on Consultant's part. As an alternative, the Consultant may furnish a Demand Draft drawn in favour of 'Maharashtra Electricity Regulatory Commission', payable at Mumbai, money of which will be returned by the Commission after satisfactory completion of work.

7.2 Terms of Payment:

Payment for the consultants would be made every month subject to the submission bills alongwith works sheet of work carried out by the consultants during the month.

7.3 **Tax Deduction at Source:** The Income Tax or any other tax liable to be deducted, as per the prevailing rules will be deducted at source before effecting the payment, for which the Commission will issue TDS Certificate/s. Service Tax, as applicable shall be payable extra, at the prevalent rates.

7.4 **No extra charge:** The charges quoted by the Bidder in his Bid, and accepted by the Commission in the Contract, will be inclusive of the costs of Consultant's Teams' travel, lodging and boarding, and also all incidental expenses, professional fees etc., incurred by the teams, in connection with the assignment. No separate charges will be payable by the Commission on any such account.

7.5 The Consultants shall keep the Commission and all the concerned Utilities to be visited, indemnified from any damages, on any account.

7.6 Confidentiality of data and documents

The Intellectual Property Rights (IPR) of the data collected as well as the deliverables produced for the Commission shall remain with the Commission. No one shall utilise or publish or disclose or part with, to a third party, any

part of the data or statistics or proceedings or information collected for the purpose of this assignment or during the course of the assignment for the Commission, without the express written consent of the Commission. The Consultant shall be bound to hand-over the entire set of records of assignment to the Commission before the expiry of the contract, and before the final payment is released by the Commission.

7.7 Conflict of interest: The consultant appointed by the Commission, shall in no case represent or give opinion or advice to others in any matter which is adverse to the interest of the Commission.

8. Bid Opening

8.1 The Technical Offers of the Bids will be scrutinised and the bidders who have qualified for further evaluation will be intimated. The Bidders shall clearly mention the name, designation and contact details of the person to be informed in their organisation regarding such intimation and regarding queries /clarifications, if any.

8.2 Pre-Bid Discussion: For the benefit of the bidding firms, a pre-bid session will be held at 16.00 hrs on 31st January, 2014 at the Commission's Office.

8.3 Opening of Financial offers: The Financial Offers will be opened at 14.00 Hrs on 25th March, 2014 (tentatively) at the Commission's office, in the presence of the qualified bidders, who may choose to remain present. The representative of such bidders, desirous of attending shall bring with him duly signed Letter of Authority.

9. Award of appointment on Contract:

9.1 Contract Finalisation:

9.1.1 On completion of the evaluation of the technical and financial offers of the Bids received, and finalisation of the Successful Bidder/s, the Commission will issue 'Letters of Intent' (LOIs) to the successful bidder/s, along with a format of the Contract to be signed.

9.1.2 Within seven days of receipt of the LOI, the successful bidder(s) shall enter into a Contract with the Commission in the prescribed format and by submitting the Contract Security Deposit (in form of bank Guarantee).

If the successful bidder fails to enter into the said Contract, within 7 days of issue of Order, the Earnest Bid Deposit submitted by the bidder will be forfeited, and the Commission may exercise its right to invite the next-in-line 'successful bidder' to award him the Contract. The Commission may also exclude the former bidder from all future assignments/ Tender processes.

9.1.3 The Commission reserves the rights, as follows:

- I) To award the Contract against this Tender, to a single bidder for all the work or to a number of bidders.
- II) To decide to cancel this Tender, and not to proceed in the matter, at any stage of the bidding or analysis of the Bids and also accept or reject any or all bids, without giving any explanation, whatsoever. In case of cancellation, the Commission shall have discretion to decide whether to return or not the un-opened portions of the Bidders' documents and also how to deal with the documents retained by the Commission.
- III) To disqualify 1) any bidder found canvassing in the office of the Commission during the bidding process 2) any bidder who has worked with the Commission in the past but has failed to deliver appropriate output for similar type of tasks as mentioned in Para 2.

9.2 Operation of the Contract:

9.2.1 As and when needed, the consultants on assignment basis would be employed on specific tasks. The required mandays and time lines would be finalized at the time of assignment of specific task.

9.2.2 The consultants named in the proposal shall be actually available for carrying out the work. Commission will not consider any substitutions of persons during the contract period except in cases of unexpected delays in the starting date of a visit due to incapacitation of key professional staff for reasons of health.

9.2.3 The Commission is not responsible for any accidents occurred at the time of execution of the works under this assignment. Members of the team visiting the power station/field areas or any related sites, in connection of the assignment should have a good knowledge of safety precautions at the premises being visited.

9.3 **Termination of Agreement :** The Commission may terminate a contract to which these Terms apply if:

9.3.1 The Consultant is unable to address the assigned works,

9.3.2 Quality of the assigned works is not to the satisfaction of the Commission

9.3.3 The Consultant fails in timely achievement of the milestones as decided by the Commission

9.3.4 The Consultant commits any material or persistent breach of its obligations under the contract (which, in the case of a breach capable of remedy, shall not have been remedied within 15 days of intimation), or

Team members of the Consultant are found lacking in honesty and integrity;

9.3.5 The Consultant becomes insolvent;

9.3.6 The Commission reserves the right to terminate the contract, by giving fifteen days' notice to the Consultant. In such event, the Contract Security Deposit will stand forfeited.

9.3.7 Termination shall be effected by written notice served on the Consultant and shall take effect in 15 days of delivery of such notice. The termination will be without prejudice to either party's rights accrued before termination.

9.4 Governing law: The contract shall be governed by and construed in accordance with the laws of the Republic of India.

10. Last date for submission of EOIs:

The final bids complete in all respects are required to be submitted by 16.00 hrs by 21st February, 2014.

Secretary, MERC

Annexure – I

(FORMAT)

Technical Offer

Date: _____

FROM:

TO:

The Secretary,
MERC, Mumbai

Subject: “Offer for consulting services for assistance to the commission to facilitate legal related works as per Para 2 of Bidding Document”

Sir,

I/We, _____, enclose herewith our Technical Offer for appointment of the firm for “Offer for consulting services for assistance to the commission to facilitate legal related works Para 2 of Bidding Document”

*We have not taken any deviation from the scope of work or working conditions and confirm compliance to all the conditions specified in the Tender documents/ *We have taken a few deviations from the Tender specifications and details of same are brought out in Annexure-

_____.

(Note: * = to be appropriately modified by the bidder.)

The Earnest money deposit of Rs.50,000 (Rupees Fifty thousand only) is enclosed in the form of the Demand Drafts bearing nos. _____.

Yours faithfully,

Signature _____

Full Name _____

Designation _____

Address _____

Encl.: (list of all enclosures)

X - - X - - X

Annexure – I-A

(FORMAT)

Relevant Experience & Track Record of the Consultancy Firm / Institution

Date: _____

A brief description of the organisation and the assignments of similar nature carried out in the last 5 years.

FROM:

TO: The Secretary
MERC, Mumbai

A. Brief description of the organisation:

1. Name of the Organization
2. Nature of the Organization
3. Business/Profession and number of years in the business
4. Number of staff
5. Registration
6. Affiliation with national and international professional/financial bodies.
7. Annual Turnover (last three years)
8. Any other relevant information

B. Assignments carried out in the last 5 years

(The following information should be given in respect of each assignment separately.)

1. Title of assignment
2. Objective of assignment
3. Narrative description of the assignment.
4. Name of the client
5. Address
6. Commencement and completion of the assignment
7. Number of man months as well as the duration period for completion of assignment
8. Outcome of the assignment.
9. Contract value of the assignment
10. Any other relevant information.

Yours faithfully,

Signature _____

Full Name _____

Designation _____ Address _____

Annexure – I-B

(NO PRESCRIBED FORMAT)

(Not more than 5 pages)

Concept Note on the Understanding of the Tasks Envisaged

Annexure – I-C

Qualifications, Experience and Competence of the Consultants for the Assignment

Format of Curriculum Vitae (CV) for Consultant proposed for the Assignment (separate sheet for each Consultant)

Name:

Name of Firm:

Profession:

Age & Date of Birth:

No. of Years with Firm:

Membership of Professional Societies:

Detailed Tasks Assigned:

Key Qualifications:

(Give an outline of staff members' experience and training most pertinent to the tasks on assignment. Describe degree of responsibility held by each staff member on relevant previous assignment and give dates and locations. Use up to half a page)

Education:

(Summarize College/University and other specialised education of each staff member, giving names of schools, dates attended and degrees obtained).

Employment Record:

(Starting with present position, list in reverse order every employment held. List all positions held by the staff members since graduation, giving dates, name of employing organization, title of positions held and location of assignments. For experience in the last ten years, also give types of activities performed and Client references, where appropriate. Use up to three-quarter of a page).

Experience in Utility Business: Position held, Nature of work, Highlights/ Achievements.

Certification:

I, the undersigned, certify that, to the best of my knowledge this bio-data correctly describes myself, my qualifications and my experience.

Signature of Staff Member

Date:

It is certified that the concerned person is a full time employee of the Firm.

Signature of authorised Official from the Firm (with name and designation)

Annexure – I-D
Qualifications, Experience and Competence of the Consultant for the Assignment
(contd)

List of the Consultants included in the team of a Bidder

1. Project Personnel

Sr.No.	Name	Position in the Organisation (Bidding Firm)	Willing to work on regular basis or assignment basis or both	Whether accommodation is available at Mumbai or nearby place
1				
2				
3				
4				
5				

Annexure I-E

(No prescribed format)

Methodology for Transferring Knowledge to the Staff of the Commission.
(Not more than three pages)

Annexure - II
(FORMAT)
FINANCIAL OFFER

Date:

FROM:

TO:
The Secretary,
MERC, Mumbai

Subject:

Sir,

This has reference to our Technical Offer under our reference no. _____ dated _____, for providing assistance to the Commission to facilitate various tasks enumerated under Section 2 of the Expression of Interest works as per of Bidding Document”

I/We _____ (Firm), hereby furnish our Financial Offer, in respect of the Group-area covered in our Technical Offer, as follows;

Sr. No	Name of the person as per Annexure I – D	Monthly Fee
1		
2		
3		

We confirm that the above quoted prices are inclusive of all costs (excluding service tax) for carrying out the work as specified in the bidding documents.

Yours faithfully,

Signature _____ Full Name _____

Designation _____ Address _____

Annexure – III
(FORMAT)

CONTRACT SECURITY DEPOSIT

To
The Secretary,
MERC

WHEREAS (Name of agency / firm) hereinafter called "the firm" has undertaken assignment of Contract No.....dated.....to assist MERC in the matter of ... legal related works as per Para 2 of Bidding Document (hereinafter called "the Contract").

AND WHEREAS it has been stipulated by you in the said Contract that the firm shall furnish you with a bank Guarantee by a scheduled bank for the sum specified therein as security for compliance with the firm's performance obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the firm a guarantee

THEREFORE WE,, (Bank's name and address) hereby affirm that we are Guarantors and responsible to you, on behalf of the firm, up to a total of (Amount of the guarantee in words and figures) and we undertake to pay you, upon your first written demand declaring the firm to be in default the contract and without cavil or argument, any sums within the limit of.....as aforesaid, without your needing to prove or to show the grounds or reasons for your demand or the sum specified therein.

This guarantee shall remain valid until the end of theday of....., 20....., for acceptance of your claims in the matter.

Signature and Seal of Guarantors

Date -----

Address -----