

TERMS OF REFERENCE
FOR
COMPETITIVE BIDS from Consultancy Firms for
for providing financial advisory services to MERC.

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(MERC) was established on August 5, 1999 under the Electricity Regulatory Commission Act, 1998, a Central Act which was superseded by Electricity Act, 2003 (EA 2003).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, such as, 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 Licenses for Transmission, Distribution, and Trading of electricity and promote generation /co-generation of electricity from renewable sources of energy.

2 Background of the Functions of the Commission;

Determination of Multy Year Tariff (MYT) Annual Revenue Requirement (ARR), Annual Performance Review (APR) of the Transmission Licensees, Distribution Licensee i.e. MSETCL/MSEDCL, The Tata Power Company Limited, Transmission & Distribution Business, Reliance Infrastructure Limited , Transmission & Distribution Business, BEST, Mula Pravara Electric Coperative Society Ltd, Adani Power Ltd, Transmission Pricing of Intra-State Transmission System (InSTS) of Maharashtra, Any other Transmission Licensee operating in the State of Maharashtra. Determination of Tariff for New Thermal Generating Units, Determination of Tariff for New Hydro Power Plants. Determination of tariffs for Non-Conventional Energy sources.

The Commission issues order on petitions/proposal after following due procedure laid down in Electricity Act and Regulations. Post issue of orders, the financial consultants (CA) are expected to evaluate the orders in financial terms which requires thorough knowledge of accounts and strong analytical skill i.e. analysis of statement of Annual Revenue Requirement, capital expenditure, Power Purchase Agreement etc.

3. MERC intends to engage technically qualified and experienced CA firm registered with the Institute of Chartered Accounts of India (ICAI) and having proven track record of 10 years in practice, for providing financial advisory services to the Commission for discharging its functions effectively.

The Consultancy firms have to submit their offer for deployment of qualified and experienced Chartered Accountants (CA) on Assignment basis. The scope of work, qualifications and other terms and conditions are as under;

4 Scope of Work/Job Responsibility:

- Detailed financial analysis of MERC Tariff Orders.
- Financial analysis of Capital expenditure proposals with respect to parameters such as cost optimization, cost reduction measures, Capital gearing structure, Interest during construction period, depreciation/amortization etc.
- Reconciliation of Utilities ARR financial statements with their Final Books of accounts prepared as per the provisions of the relevant applicable statute.
- Analysis of the concept of 'Return on Equity' Vs. 'Return on Capital Employed' and its financial implications for the MYT Regulations.
- Analysis of Impact of Regulatory assets and its carrying cost on the tariff.
- Financial analysis of Power Purchase Agreement.
- Advising the Commission on financial matters.

5 Eligibility Criteria of the Practicing Consultancy Firm:

Request Proposals of only those Practicing CA Firms registered with The Institute of Chartered Accountants of India (ICAI) and able to demonstrate skills and experience in the following areas will be considered:-

- Should have proven track record in consultancy of atleast 10 years. Preference would be given to firms having experience in Regulatory Sector.
- Ability to understand the assignment and the emerging issues with respect to Regulatory Affairs.

Eligibility Criteria of the individual consultant to be engaged by Practicing Consultancy Firms

- Qualified Chartered Accountant (CA) with post qualification experience of minimum 2 years.
- Candidate should have been working with firm for a minimum period of 1 year.
- Experience in project appraisal of power projects, preparation of financial models and reports of high quality standards, will be desirable.
- Should have good communication and interpersonal skills with a strong flair for financial analysis and good drafting skills.
- Should have knowledge of advance usage of spreadsheet (MS Excel).

6 Type of appointment:

The consultancy firms will be engaged on assignment basis and would be required to work for MERC as and when the need would arise.

7 Requirement of Financial Consultant (CA):

The Commission requires chartered accountancy firms with one or more chartered accountants who will be assigned works as per requirement on Assignment basis. The Commission reserves its right to engage any number of firms.

The Individual financial Consultant (CA) proposed by the Financial/CA Firm for engagement shall be well acquainted with the Project Finance, Project Appraisal, Recourse & Non-Resources Financing, Capital Structuring and Financing of Power Projects and the eligibility criteria specified in para 5 above.

Experience: Every such Firm should have 10 years experience after establishing the Financial Firm in the work of Project Finance, Project Appraisal, Recourse & Non-Resources Financing, Capital Structuring and Financing of Power Projects. The CA/Financial Firm is required to submit documentary evidences in support of the each resource person's (CA) experience.

Contract Period: Initial contract would be for a period of 3 year which is extendable further period or 2 years.

The CA Firm should furnish copies of certificate of registration, PAN, service tax registration etc and other documents supporting claims made by the Firms as above.

9 Guidelines for submission of the bid:

Duly completed Bid as described below, in a sealed envelope, super- scribed “Offer for providing Financial Advisory Services to the Commission” should be submitted so as to reach the office of the Commission on or before 16:00 Hrs on 24.12.2014. 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.

The Bid shall comprise of two parts, i.e. (i) Technical Offer, and, (ii) Financial Offer, as follows: The Technical Offer, as per the format given at **Annexures I, I-A, I-B, I-C, I-D & I-E.**, shall be submitted in duplicate, sealed in an envelope which must be clearly marked as “Technical Offer for providing financial advisory services to the Commission” as mentioned para 4 of the Bidding Document” (Technical Offer)”

The Financial Offer, as per the format given at **Annexure-II** – shall be submitted in duplicate, sealed in an envelope which must be clearly marked as “Financial offer for providing financial advisory services to the Commission” as mentioned in Para 2 of Bidding Document” (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 “Offer for providing Financial Advisory Services to the Commission”. .

10 Earnest Money Deposit:

The Technical Offer should be accompanied by an Earnest Money Deposit of Rs. 20,000/- (Rupees Twenty 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

11 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.

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.

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

12 General Conditions of Contract:

Security Deposit: The successful bidder shall furnish a Bank Guarantee (as per the Format attached as **Annexure-III**) from a Scheduled Bank, on a Stamp Paper of Rs.100/-, as Security Deposit, for a value equal to Rs. 1,00,000/- (Rupees One 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 Firm/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.

13 Terms of Payment:

The payment would be on the basis of actual working days in a month, subject a maximum of the approved monthly fee. One working day would constitute work of eight hours. The rate of one working day would be calculated on the assumption that the approved monthly fee is for 22 working days.

Payment for the consultants (CA) appointed on assignment basis would be made every month subject to the submission of invoice/ bill alongwith work sheets of work carried out by the consultants during the month.

14 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.

15 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. However, in case the financial consultants are required to travel outside Mumbai in the context of the work/assignment, the Commission shall reimburse the actual cost as per the Rules/Regulations of the Commission.

The Consultants shall keep the Commission and all the concerned Utilities (MSEDCL, MSETCL, MSPGCL, BEST TPC, RINFRA, MPECSL) to be visited, indemnified from any damages, on any account.

16 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 **not** 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.

17 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

18 Bid Opening

The Bid/ Offers of the Bids will be scrutinised by the Commission and the bidders who have qualified for further evaluation will be intimated by the Commission. 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.

Pre-Bid Discussion: For the benefit of the bidding firms, a pre-bid session will be held at 16.00 hrs on 12.12.2014 at the Commission's Office.

Opening of Financial offers: The Financial Offers will be opened at 16:00 Hrs on 30.01.2015 (tentatively) at the Commission's office, in the presence of the bidders, who may choose to remain present. The representative of such bidders, desirous of attending shall bring with him duly signed Letter of Authority. The successful bidder in Technical Offer will be informed the final date of opening of Financial Offer if there is any change in above mentioned date.

19 Contract Finalisation:

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.

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.

20 The Commission reserves the rights, as follows:

To award the Contract against this Tender, to a single bidder for all the work or to a number of bidders.

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.

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 4.

21 Operation of the Contract:

Immediately on entering into a Contract for work, as above, the detailed work plan, and dates for the milestones for monitoring progress of various works shall be discussed and finalised. As and when needed, the Chartered Accountant on assignment basis would be employed on specific tasks/assignment. The required mandays and time lines would be finalized at the time of assignment of specific task. All such decisions would be taken after discussing the matter with the CA Firms.

The CAs 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.

The Commission is not responsible for any accidents occurred at the time of execution of the works under this assignment.

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

The Consultant is unable to address the assigned works,

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

The CA or CA Firm fails in timely achievement of the milestones as finally decide by the Commission.

The CA or CA Firm 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

The C A or CA Firm is found lacking in honesty and integrity;

The CA Firm becomes insolvent;

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.

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.

23 Governing law:

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

24 Technical Offer:

The bidders for the contract shall provide a brief description of the Firm and a clear outline of **assignments executed in the past 10 years** (as per **Annexure I-A**). The information provided on each assignment shall indicate, inter-alia, the objectives of the assignment, its duration, profiles of the staff engaged, approximate value of contract, and completion status along-with the outcome of the assignment.

The bidders shall provide a concept note about their understanding of the task/scope of the work they are supposed to undertake while working with MERC under the present contract (**Annexure I-B**). The note should not be more than 5 pages.

The bidder must submit **updated curriculum vitae (CV)** of all the CAs proposed to deploy on or Assignment basis. Key information should include: number of years with the firm, professional qualifications and degree of responsibility held in various assignments during the last five years. Curriculum Vitae of the consultants should clearly and separately identify those assignments, directly relevant to the proposed contract. (**Annexure-I-C&I-D**)

The bidder shall propose a methodology for transferring knowledge to the staff of the Commission. (**Annexure-I-E**)

The Demand Drafts for Earnest money Deposit (Rs.20,000/-) shall be attached with the Technical offer.

25 Financial Offer

The bidders shall submit their financial bids in Annexure II. The bidder shall quote a monthly fee offer for individual CA willing to work on assignment basis, which shall be inclusive of all the costs of the consultants travel, lodging, boarding, and also all incidental expenses, professional fees, etc. No separate charges will be payable by the Commission on any such account. Service tax will be paid extra at the applicable rates in case the firm/ agency quotes a valid Service Tax Registration number in his bid and in the invoices.

No alteration to the price bid, for any reason or lapses, whatsoever, will be allowed after the Bid opening. Any additional payment to the CA firm, over and above the Contract price, will **NOT** be admissible by the Commission.

The quoted prices shall remain fixed for the duration of the Contract. No additional amount shall become payable by the Commission on account of escalation or any other reason

26 Basis for Evaluation of the Offers

The evaluation of bid/offer will be carried out by the Commission on the basis of required qualification & experience of CAs, work carried during last five years, lowest financial offer (monthly fee) etc.

The Commission reserve the right to reject the offer/bid without assigning the reason for the same.

* * * * *

Annexure – I
(FORMAT)

Date: _____

FROM:

TO:

Secretary,

MERC, Mumbai

Subject: “Offer for providing financial advisory services & assign one qualified CA on Assignment basis for advising the Commission”

Sir,

I/We, _____, enclose herewith our Offer for providing services for advising the Commission on financial aspect/issues as mentioned in para “Task/Scope of Work/” in bid documents.

*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 terms and conditions of bid documents and details of same are brought out in Annexure-____.

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

The Earnest money deposit of Rs. (Rupees 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 CA Firm

Date: _____

A brief description of the CA Firm and the similar nature of work as mentioned in bid documents carried out in the last 10 years after constitution of the Firm.

FROM:

TO: Secretary
MERC, Mumbai

A. Brief description of the organisation:

1. Name of the Firm
2. Nature of the Firm
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. Significant nature of work carried out in the last 10 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 Task/Scope of work

Annexure – I(C)

Qualifications, Experience and Competence of the Chartered Accountant

**Format of Curriculum Vitae (CV) for CA proposed
for the Assignment basis (separate sheet for each CA)**

Name:

Name of Firm:

Profession:

Age & Date of Birth:

No. of Years with Firm:

Membership of Professional Societies:

Detailed Tasks Assigned:

Key Qualifications:

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 dated, 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 basis
(contd)**

List of the Consultants

Sr.No.	Name	Position in the parent Organisation (Bidding Firm)
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:
Secretary,
MERC, Mumbai

Subject:

Sir,

This has reference to our Technical Offer under our reference no. _____ dated _____, for financial advisory services for assistance to the Commission to facilitate the works as per Para 4 of Bidding Document”

I/We _____ (Firm), hereby furnish our Financial Offer, in respect of the resource persons (CA) 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 firm) hereinafter called "the firm" has undertaken assignment of Contract No.....dated.....to assist MERC in the matter of financial advisory services as per Para 4 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 -----