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JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION

NOTIFICATION
27th August, 2024

TERMS AND CONDITIONS OF APPOINTMENT OF CONSULTANTS REGULATIONS 2024

Notification No. 103--In exercise of the powers conferred under section 91(4) read with Section 181 of the Electricity Act, 2003 and all other powers enabling it in this behalf, the Jharkhand State Electricity Regulatory Commission hereby makes the following Regulations:-

REGULATIONS

1. Short Title, extent, and Commencement

- 1.1 These Regulations may be called the “Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Appointment of Consultants) Regulations, 2024”.
- 1.2 These Regulations shall extend to the entire State of Jharkhand.
- 1.3 These Regulations shall come into force from the date of their publication in the official Gazette of the Government of Jharkhand.

2. Definitions

2.1 In these Regulations, unless the context otherwise requires –

- i. **“Act”** shall mean the Electricity Act, 2003 (36 of 2003)
- ii. **“Bidder”** refers to a person or firm who submits its proposal for the appointment by the Commission as its Consultant;
- iii. **“Chairperson”** means the Chairperson of the Jharkhand State Electricity Regulatory Commission;
- iv. **“Commission”** means the Jharkhand State Electricity Regulatory Commission;
- v. **“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 on the matter relating to the Electricity Regulatory Commission;
- vi. **“Consultancy Evaluation Committee”** hereinafter referred to as “CEC” means the committee constituting of Member(s) of the Commission and shall include the Secretary;
- vii. **“Officer”** shall mean officer of the Jharkhand State Electricity Regulatory Commission;
- viii. **“Member”** shall mean a member of the Jharkhand State Electricity Regulatory Commission;
- ix. **“Regulation”** shall mean the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Appointment of Consultant) Regulation 2024.
- x. **“Secretariat”** means secretariat of the Jharkhand State Electricity Regulatory Commission;
- xi. **“Secretary”** means the Secretary of the Jharkhand State Electricity Regulatory Commission.

2.2. **Words and expressions** used and not defined in these Regulations but defined in the Act shall have the same meanings as in the Act.

2.3. **Interpretation:** In case of any doubt regarding the interpretation of these regulations or when express provision has not been made in these regulations about a particular matter, the interpretation of the Commission in those matters shall be final.

3. Scope of Work

3.1. Consultant(s) may be engaged for the following purposes, namely –

- i. Providing expert advice on specific issues of relevance and interest to the Commission,
- ii. Conducting a study of best practices, analysis and interpretation of data, developing benchmarks, or for any other similar purpose,
- iii. Assisting the Commission in preparation of Tariff Orders pertaining to Tariff Petitions filed by GENCOs, STU & Discoms and verification of Power Purchase Cost and Quantum, Sales, Distribution loss, PPAC etc.
- iv. Scrutiny and analysis of Review Petitions / Appeals as well as cases filed before the Commission.
- v. Assisting the Commission in preparation of reply in ongoing Civil Appeals before Hon’ble Supreme Court of India, Hon’ble Jharkhand High Court and Appeals before Hon’ble APTEL.
- vi. Assisting the Commission in performing its functions as well as other works of the Commission.

3.2. Detailed terms of engagement including a detailed scope of work shall be drawn up in each case.

3.3. The terms of engagement would specify the exact nature of the task to be undertaken by the consultant, the time allowed for the completion of each task and the specific output that are to be provided by the consultant in relation to each of the task.

4. Period of Engagement: -Consultant shall be engaged for a minimum period of one year. However, the period of engagement may be extended for another one year, if considered necessary by the Commission.

5. Categorization of consultants

Consultants shall be categorized as:

- i. Corporate/Institutional consultants.
- ii. Staff Consultant.

6. Corporate/Institutional Consultants

6.1. The Commission, on being satisfied that there is a need for availing consultancy services, which, in its opinion, maybe more appropriately provided by a registered firm, a company, or association or a body of persons, shall direct the Secretariat to prepare the terms of reference indicating the detailed scope of the work, various deliverables, role and responsibility of Consultant, various milestones (e.g. work break down structure and/or schedule), nature and duration of the assignment and the schedule of payments linked to the achievement of each milestone but not restricted to above points. The Proposal shall be submitted to the Commission for approval.

6.2. The Commission shall constitute the CEC headed by a Member of the Commission and shall include the Secretary and, if considered necessary, an external expert, as may be nominated by the Commission.

6.3. The CEC shall, after necessary modification, if any, obtain approval of the Commission for the terms of reference for the engagement of a corporate consultant.

6.4. 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 parameters and obtaining the approval of the Commission for the weightage proposed.

6.5. After finalizing the weightage under clause (6.4), the CEC shall invite single-stage bids, containing technical and financial proposals in separate sealed envelopes, through the publication of notice in at least two daily newspapers (one English and one Hindi) 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 and for a reason to be recorded in writing, the period of notice may be reduced to less than three weeks but shall not be less than two weeks in any case, as may be decided with the approval of the Commission.

6.6. The CEC shall evaluate the bids through a 'Combined-Quality-Cum-Cost-Based System' based on the pre-determined weightage allocated to each of the parameters:

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

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

6.7. The corporate consultant shall be engaged after obtaining the approval of the Commission.

6.8. Notwithstanding anything contained in this regulation, in matters of urgent nature and involving financial commitment not likely to exceed Rs. Ten lakhs, the Commission may avail consultancy services of a corporate consultant on the basis of single sourcing through negotiation.

6.9. Appointment and terms & conditions of Corporate/Individual Consultant.

- a) The appointment of Consultants may be made on the basis of the evaluation of competitive proposals submitted by the Bidders in accordance with the request for Proposal circulated by the Commission.

b) Terms and conditions of work:-

The terms of the contract shall be agreed at the time of appointment of the Consultants and prior to the commencement of work.

c) The terms of the contract shall provide for:

- The scope of the work to be undertaken by the Consultant;
- The fees for the engagement;
- The deliverables to be provided by the Consultant; and
- The standard terms and conditions governing the engagement as provided by the Commission

d) The scope of work for the engagement shall be as laid down by the Commission in the contract:

Provided that the scope of work shall be based on the Request for Proposal circulated by the Commission and the proposal submitted by the Consultant:

Provided, however, that where the Commission amends or alters the scope of work at any time before signing of the contract, the Commission may, at its discretion and having regard to the nature of such amendment/alteration either so amend or alter the scope of work in the contract and mutually agree on the additional fees or savings therein with the Consultant or cancel the engagement and invite fresh proposal:

Provided further that where the Commission amends or alters the scope of work after signing the contract, the additional fees and charges or savings shall be mutually agreed upon between the Commission and the Consultant.

e) Fee for the engagement may include:

- i. consultancy fees payable on completion of specified milestones identified in the contract;

7. Staff Consultant

7.1. The Commission, on being satisfied that there has been an increase in the quantum of work of the Commission, or difficulties arising in filling regular posts, may decide to engage a Staff Consultant in expediciencies of work, to assist the Commission in discharge of their functions effectively and direct the Secretariat to take further steps.

7.2. The Commission shall invite applications by publishing notice in atleast two daily newspapers (one in English and one in Hindi) and in the Commission's website and by giving as far as possible, a period of two weeks for making applications by interested persons.

7.3. Before publishing the notice, the Secretariat shall identify the academic qualification and experience requirements keeping in view the relevant provisions of the Commission's Regulations governing the recruitment against regular posts.

7.4. The minimum age of the consultant as on 1st April of the year of advertisement shall be below 30 years; Provided that no Consultant would be retained in the Commission after attaining the age of 70 years

7.5. Staff Consultant may be categorized based on the qualification and length of experience and offered a consolidated fee ranging from Rs. 40,000/- per month (for a fresh candidate) to Rs. 1,00,000/- per month (for a candidate having 15 years or more experience). The fees indicated in this clause maybe

revised at the end of every three year with an escalation of 10%. The escalation will be considered depending on the efficiency of the Consultant.

7.6. The Commission may reimburse the expenditure incurred by Staff Consultant on travel by appropriate class and stay at a place away from the headquarters.

7.7. Staff Consultant appointed by the Commission under these regulations shall be eligible for one-day casual leave in a month subject to total casual leave of twelve days in a calendar year. Casual leave, if not availed during any month, shall accumulate till the end of the calendar year.

Provided that period of absence on holidays/casual leave in a stretch shall not exceed 05 days and any absenteeism over and above the period approved by the Commission shall be treated as leave on loss of emolument and a deduction shall be made on a pro-rata basis in the monthly emolument.

7.8. The Commission shall constitute the CEC headed by a Member(s) of the Commission and shall include the Secretary and, if considered necessary, an external expert, as may be nominated by the Commission. The CEC shall interact with the candidates and recommend names of suitable persons for engagement as Staff Consultants and the fee to be paid for approval of the Commission.

7.9. The Consultant shall be engaged initially for a period of one year. However, the period of engagement may be extended for another one year, if considered necessary by the Commission subject to satisfactory performance of the Staff Consultant.

8. Other Conditions

8.1. No person shall be eligible for appointment as consultant unless he/ she is: -

(a) A citizen of India or Nepal or Bhutan or

(b) is a person bearing a good moral character and has not been convicted in the past for any offence under IPC.

(c) has not been dismissed or removed from any Govt. or private job on grounds of misconduct involving moral turpitude.

8.2. The Consultants 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.

8.3. Without the express written consent of the Commission, a Consultant appointed by the Commission shall not utilize, publish, disclose, or part with any information collected for the Commission and the Consultant shall be duty bound to hand over the entire record of the assignment to the Commission before the expiry of the contract.

8.4. The Commission shall be the final authority for the interpretation of these Regulations.

8.5. Consultants shall not be hired for any engagement that would be in conflict with their prior or current obligations to other clients or that may place them in a position of not being able to carry out the engagements objectively and impartially.

9. Vacancy in the Office of Chairperson

In the case of vacancy in the office of the Chairperson, the powers exercisable by the Chairperson under these Regulations may be exercised by the Member(s) of the Commission.

10. Power to relax.

The Commission may, for reasons to be recorded in writing, relax any of the provisions of these Regulations.”

11. General power to amend.

The Commission may at any time and on such terms as it may think fit amend any provision of these Regulations for the purpose of achieving the objectives for which these Regulations have been framed.

12. Power to remove difficulties.

If any difficulty arises in giving effect to any of the provisions of these Regulations the Commission may, by general or special order do anything, not being inconsistent with the provisions of the Act, which appears to it to be necessary or expedient for the purpose of removing the difficulties.

13. Saving of inherent power of the Commission: -

Nothing in these regulations shall bar the Commission from adopting a procedure which is at variance with any of the provisions of these Regulation, if the Commission, in view of the special circumstances of the matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient to depart from the procedure specified in these Regulations.

By order of the Commission,

Sd/-

Secretary

Jharkhand State Electricity Regulatory
Commission.
