

Uttar Pradesh Electricity Regulatory Commission

**INVITATION FOR EMPANELMENT OF CONSULTING FIRMS/INSTITUTIONS
FOR ASSISTING THE COMMISSION IN DISCHARGING ITS VARIOUS
REGULATORY FUNCTIONS**

Uttar Pradesh Electricity Regulatory Commission (UPERC) invites applications from reputed & experienced Consultancy Firms/Institutions to assist the Commission for services as mentioned in the bid. The empaneled Consultancy Firms/Institutions will be invited vide separate letters, from time to time to offer their services at lowest prices on various matters as per the directions of the Commission.

SCOPE OF WORK:

1. EVALUATING AND APPROVAL OF BUSINESS PLAN

The consultant shall assist the Commission in assessing and evaluating the Business Plan and issuing the order on Business Plan petitions filed as may be appropriate for different distribution, transmission and generation licensees. Some of the major activities that will be required to be carried out by the consultant in processing and analyzing the Business Plan petitions submitted by the licensees are as given below:

- a. Examining the Business Plan Petitions to check its completeness with regards to Uttar Pradesh Electricity Regulatory Commission (Multi Year Distribution Tariff) Regulations, 2014, and Uttar Pradesh Electricity Regulatory Commission (Multi Year Transmission Tariff) Regulations, 2014, as submitted by the licensee(s).
- b. Identifying the data deficiencies / gaps / inconsistencies, if any, and preparing deficiency notes for each licensee.
- c. Examination and review of subsequent submissions made by the licensees in response to the deficiencies raised by the Commission.
- d. Finalization of admittance / suo-moto orders.
- e. Submission and issuance of Staff Papers on the Business Plan Petitions of each licensee.
- f. Assist UPERC in taking final view on the issues raised by the consumers, consumer groups and stakeholders in the light of provisions of the applicable Acts, Tariff Policy, National Electricity Policy, UPERC Regulations, past Tariff Orders of the Commission and the responses of the licensees on the same, rejoinders etc.
- g. Comprehensive Analysis of each aspect of Business Plan in accordance with the provisions of Tariff Regulations, 2014.
- h. Preparation of Models required for approval of Business Plan.
- i. Preparation of draft Order based on detailed analysis of all the elements of Business Plan.
- j. Follow up and assistance in Appellate Tribunal/High Court/Supreme Court in the event of appeal/review, if any.

2. FINALIZATION OF ARR/ TARIFF DETERMINATION

- a. Retail Sale of Electricity: By the distribution licensee to various consumers in the State including charges for intra-State Transmission of electricity and charges for wheeling of electricity at different voltage levels.
- b. Transmission of Electricity: For intra-State Transmission of electricity undertaken by the Transmission licensee.
- c. Generation and Supply of Electricity: By the generating company to the distribution licensee of the State.

- d. Generation of Electricity by Renewable Energy Sources: By Renewable Energy Sources generating plants in the State including Mini & Micro Hydel, Solar, Wind, Biomass generating plants etc.

The scope of work shall include all activities necessary for the finalization of ARR and Tariff & True ups as may be appropriate for different licensees. Some of the major activities that will be required to be carried out by the consultant in processing and analysing the petitions submitted by the licensees are as given below:

- a) Preliminary examination of MYT Petitions, True Ups, Review of True Ups / ARR & Tariff Orders etc. filed by the licensee(s) (in case the filing is not done by the licensee(s) or the filing(s) are not as per the legal framework, then the Commission may initiate Suo-Moto proceedings) from the point of view of overall completeness in accordance with the requirements of the Electricity Act, 2003, Policies, Guidelines, Judicial Orders (Commission, Appellate Tribunal for Electricity, Supreme Court, High Court, etc.) and various Regulations of the Commission as applicable, etc..
- b) Identifying the data deficiencies / gaps / inconsistencies, if any, and preparing deficiency notes for each licensee.
- c) Examination and review of subsequent submissions made by the licensees in response to the deficiencies raised by the Commission.
- d) Finalization of admittance / suo-moto orders.
- e) Submission and issuance of Staff Papers on the determination of ARR and Tariff, Annual Performance Review, True Up, Review of True Up etc. of each licensee.
- f) Assist UPERC in publishing the public notices and conducting various public hearings in the area of operation of the licensees and taking attendance and notes on various issues raised by different consumers, consumer groups and stakeholders and submission of detailed analysis report (incorporating the comments of the licensees & rejoinders) on the same along with MS Power-Point presentation.
- g) Assist UPERC in taking final view on the issues raised by the consumers, consumer groups and stakeholders in the light of provisions of the applicable Acts, Tariff Policy, National Electricity Policy, UPERC Regulations, past Tariff Orders of the Commission and the responses of the licensees on the same, rejoinders etc.
- h) Preparation of ARR, Revenue etc. models (in MS Excel) required for approvals and other related performance data for the complete analysis of the ARR and Tariff, Annual Performance Review & True ups. The consultant is required to check the data e.g. sales, purchase, fixed asset registers, capex related documents, interest related documents etc. so as to assist the Commission in prudently checking and approving the same. If required, the consultant will need to visit the concerned offices of the licensee where the data / records are available. It will be the primary responsibility of the consultant to get the required data from the licensees.
- i) Review of overall performance of licensees and its comparison with similarly placed utilities. The consultant is required to benchmark the Employee Expenses, R&M, A&G, Capex, Interest – Long term and short term, T&D losses etc. with other distribution utilities e.g. Gujarat, Rajasthan, MP, Maharashtra, Karnataka, AP, Haryana, Punjab, New Delhi etc. Based on this the consultant is required to comment on the short and long-term impact on the financial health of the licensee. The consultant is also expected to conduct analysis on any issue provided to him by UPERC. The consultant is also required

to submit an 'Analysis Report' compiling all such analysis at the end of the assignment (in the last milestone).

- j) Analysis of T&D & AT&C losses, 100% metering, collection efficiency, aging analysis of various dues at various voltage levels and at various consumer categories / sub categories etc.
- k) Review of Benchmarking Studies to be carried out by the Licensees as per the Regulations.
- l) Timely satisfactory submission of any other issue(s) as may be entrusted by the Commission.
- m) Preparation of draft Order based on detailed analysis of MYT Petitions.
- n) Follow up and assistance in Appellate Tribunal/High Court/Supreme Court in the event of appeal/review, if any.

3. FORMULATION AND/OR AMENDMENT OF REGULATIONS

The consultant shall provide consultancy and assistance in formulation of regulations and/or amendment of regulations as and when required by the Commission. The assignment shall include the following-

- a) Preparation of discussion paper/consultation and seeking various stakeholders' suggestions and comments as per order of the Commission.
- b) Assistance in the public hearing, if any, as required by the Commission, processing and analysing the suggestions and comments filed by stake-holders or their representatives during public hearing, preparation and submission of feed-back report with reply/clarification to the suggestion and comments with possible alternatives/modifications required in the Regulations/amendment in regulations to address or satisfy the comments and suggestions. The report should be submitted to the Commission for comments and decision of the Commission.
- c) Prepare and submit Draft Regulations/amendment of regulations and Statement of Reasons (SOR) for comments of the Commission.
- d) Prepare and submit Final Draft Regulations or amendment of Regulations and Statement of Reasons (SOR) as per comments and directions of the Commission
- e) Follow up and assistance in Appellate Tribunal/High Court/Supreme Court in the event of appeal/review, if any.

4. PROCESSING OF POWER PURCHASE AGREEMENTS

The consultant shall provide consultancy and assist the Commission in examining, processing and analysing the Power Purchase Agreements. The scope of work shall include all activities necessary for the finalization and approval of Power Purchase Agreements, as may be appropriate for different licensees/companies. Some of the major activities that will be required to be carried out by the Consultant in processing and analysing the petitions submitted by the licensees/ companies are given below –

- a) Examining the petitions for approval of Power Purchase Agreements to check its completeness with regard to
 - I. UPERC (Electricity Supply Code) Regulations as amended from time to time,

- II. UPERC (Terms and conditions for determination of Distribution Tariff) Regulations, as amended from time to time,
 - III. UPERC (Terms and Conditions for determination of Transmission Tariff) Regulations, as amended from time to time,
 - IV. UPERC (Terms and Conditions for Determination of Generation Tariff) Regulations as amended from time to time, as submitted by the licensee(s)/companies.
 - V. UPERC (Captive & Renewable Energy) Regulations, as amended from time to time,
 - VI. All other in force Regulations of UPERC
- b) Identifying the data deficiencies/gaps/inconsistencies, if any, and preparing deficiency notes for each licensee/company.
 - c) Examining and reviewing the subsequent submissions made by the licensees/companies in response to the deficiencies raised by the Commission.
 - d) Submission and issuance of papers on the petitions for approval of Power Purchase Agreements of each licensee/company.
 - e) Assistance in the public hearing and interactive meeting with different stake-holders as required by the Commission, processing and preparing analysis of the suggestions and objections filed and represented in public hearing and responses of the licensee or generating company and preparing a feed-back report for the Commission.
 - f) Assistance in taking final view on the issues raised by the consumers, consumer groups and stakeholders in the light of provisions of the applicable Acts, Tariff Policy, National Electricity Policy, Regulations, past Tariff Orders of the Commission and the responses of the licensees/companies on the same, rejoinders etc.
 - g) Comprehensive Analysis of each aspect of Power Purchase Agreements in accordance with the provisions of applicable Regulations.
 - h) Preparation of review Models required for approval of Power Purchase Agreements.
 - i) Preparation and submission of Final Order for approval based on detailed analysis of all the elements of Power Purchase Agreements.
 - j) Follow up and assistance in the Appellate Tribunal/Supreme Court in the event of review/approval filed, if any.

5. GENERIC/PREFERENTIAL TARIFF DETERMINATION AS AND WHEN REQUIRED

The consultant shall provide assistance to the Commission in determination of generic tariff for procurement of power from Renewable sources in the State including Mini & Micro Hydel, Solar PV Power Project and Solar Thermal Power Project, Wind, Small Hydro Projects, Biomass-Rankine and Gasification based generating plants and non-fossil fuel-based co-generation projects etc. The scope of work shall include all activities necessary for the determination and finalization of generic tariff for Non-Conventional Energy sources plants in the State as may be appropriate. However, some of the major activities that will be required to be carried out by the Consultant in processing and determination of generic tariff are given below –

- a) Preparation of discussion paper/consultation paper in conformity with the Act, Regulations, prescribed formats and accepted practices for floating the same before various stake-holders seeking their suggestions and comments as per order of the Commission.

- b) Assistance in the public hearing and interactive meeting with different stake-holders as required by the Commission, processing and preparing analysis of the suggestions and objections filed and represented in public hearing and responses of the licensee or generating company and preparing a feed-back report for the Commission.
- c) Preparation and submission of Final Tariff Report as per comments and directions of the Commission on the draft Report.
- d) Follow up and assistance in the Appellate Tribunal/Supreme Court in the event of review/approval filed, if any.

6. PRUDENCE CHECK OF THE CAPITAL COST OF THERMAL/HYDRO/RENEWABLE POWER PROJECTS

The Consultant shall check and conduct detailed scrutiny, physical, technical & financial verification of the completed capital cost pertaining to the Power Projects and submit the report to the Commission. In this process, the firm shall verify -

- a) whether least cost option has been followed and optimal project cost is achieved while executing the Project
- b) the item-wise actual costs and phasing of capital expenditure incurred vis-à-vis those provisionally approved by the Commission, if any
- c) Compare the costs incurred with available benchmark costs, if any
- d) Undertake verification of geographical and technical constraints as claimed, if any
- e) Confirm the reasonability of amounts of capital expenditure and capitalization claimed vis a vis actually incurred. Accordingly, for such verification purpose, apart from the scrutiny of the audited annual accounts, all EPC and non-EPC work and/or service related contracts, documentary evidence related to such contracts, sample invoices for supply as well as service etc. shall be verified by the firm.

7. OTHER MISCELLANEOUS TASKS

- Assisting the Commission in various issues related to tariffs, distribution, generation, transmission, trading, open access, renewables etc. on a day to day basis.
- Conducting studies for performance of licensees or benchmarking
- The description of activities to be undertaken as detailed in the scope is purely indicative and not exhaustive. Changes / additions, as may be necessary for completion of work, may be incorporated by UPERC. Scope of the activities can have any other associated work as may be assigned by the Commission.
- Even after the completion of the work and release of full payment, the consultant is required to assist and provide the comments / analysis to the Commission in regard to the issuance of orders in respect of clarifications, corrigendums, addendums, stays etc. in respect of the reviews filed in the Commission or suo-moto, appeals filed in Hon'ble APTEL and matters filed in various Hon'ble Courts / Forums etc. related to the work at no extra cost.

TERMS AND CONDITIONS

1. QUALIFYING REQUIREMENTS

- a) The bidding firm must be a registered firm / legal entity / institution (including educational institutions such as IIT, IIM etc.). No joint venture / association of independent consultants / consortium is allowed.
- b) Must have annual turnover of consulting portfolio **(average of past 3 financial years of the firm) equal to or more than Rs. 5 Crores** from consultancy business. Annual turnover should be duly certified by statutory body like Chartered Accountant or Independent Auditors who are competent to do so.
- c) Must have done at least a single work of **Rs. 25 lacs or more in the past 3 (each) financial years** of providing assistance to Electricity Regulatory Commission in analyzing the ARR / Tariff or MYT petitions and finalizing ARR / Tariff or MYT orders, formulation and/or amendment of Regulations, Processing of PPAs, Determination of Generic Tariff, prudence check of the capital cost of thermal/hydro/renewable power projects, and other Miscellaneous tasks. The bidder is required to submit work order indicating the value of work awarded in support along with a certificate declaring that the work has been completed satisfactorily.
- d) Must have an experience of at least 3 years in above mentioned scope (points 1-7).
- e) Must undertake that the consultant or his partners / promoters / directors are not associated with the licensees of Uttar Pradesh and shall submit a certificate of no conflict of interest. If the above condition is not met by the consultant, then the said consultant will automatically stand disqualified.

Please provide the data as per the format below in support of the above qualifiers:

Sl. No.	Qualifying Requirements	Remarks
1	Must have annual turnover of consulting portfolio <u>(average of past 3 financial years of the firm) should be equal to or more than Rs. 5 Crores</u> from consultancy business. Annual turnover should be duly certified by statutory body like Chartered Accountant or Independent Auditors who are competent to do so.	Please submit the supporting annual turnover records with a covering sheet summarising the data for the past 3 financial years
2	Must have done at least a single work of <u>Rs. 25 lacs or more in the past 3 (each) financial years</u> of providing assistance to Electricity Regulatory Commission in analyzing the ARR / Tariff or MYT petitions and finalizing ARR / Tariff or MYT orders, formulation and/or amendment of Regulations, Processing of PPAs, Determination of Generic Tariff, Prudence check of the capital cost of thermal/hydro/renewable power projects, and other Miscellaneous tasks. The bidder is required to submit work order indicating the value of work awarded in support along with a certificate declaring that the work has been completed satisfactorily.	Please provide data as per Table - A below along with self-attested photocopies of all relevant papers in support of the same.

3	Must undertake that the consultant or his partners / promoters / directors are not associated with the licensees of Uttar Pradesh and shall submit a certificate of no conflict of interest. If the above condition is not met by the consultant, then the said consultant will automatically stand disqualified.	Please submit a declaration on the status of same on a notarised affidavit. Please note that your bid will be rejected in case the same is not submitted.
---	---	---

Table - A

Sl. No.	Details of Work	Client	Start Date, End Date & Successful Completion (Y/N)	Value of Work (in Rs. Lacs)	Page No. & Flag No. in your proposal
1					
2					
3					
4					
5					

2. PAYMENT TERMS

- a) Fifty percent (50%) of the total contract price on the submission of the draft of work assigned.
 - b) Forty percent (40%) of the total contract price upon submission of final work assigned.
 - c) Balance ten percent (10%) of the total contract price after three months of completion of work or after the disposal of the review/appeal, if any, whichever is later.
3. The firm shall submit Technical bid in respect of the **Scope of Work** enumerated above.
 4. The firm shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the Commission or that may reasonably be perceived as having this effect. The bidders shall not be hired for any assignment that would be in conflict with their prior or current obligations to their other clients or that may place them in a position of not being able to carry out the assignments objectively and impartially.
 5. UPERC reserves the right to accept or reject any request for empanelment, without assigning any reason.
 6. Firms finally empaneled shall be informed suitably.

7. COST OF BIDDING

All costs and expenses direct / incidental to preparation and submission of the bids shall be on account of the bidders. UPERC shall, under no circumstances, be responsible or liable for these costs / expenses regardless of the conduct or outcome of the tendering process.

8. OWNERSHIP OF MATERIAL

All reports, models and any other documents that the selected Consultant will have to prepare under the contract shall belong to and remain the property of the Commission. The Commission shall retain the rights to publish or disseminate reports arising from such materials.

9. ARBITRATION

All disputes and differences by and between the parties hereto in any way relating to or; arising out of the present contract or in any way connected with the contract shall be referred to the arbitration of a sole arbitrator selected by mutual consent of both the parties. All the proceedings of arbitration will be held in Lucknow only. The provisions of Arbitration and Conciliation Act, 1996 and its amendments will be applicable.

10. JURISDICTION

Only the Courts established at Lucknow will have the jurisdiction to decide any dispute between the parties.

11. TERMINATION

- a) The Commission reserves its right to foreclose, terminate or cancel the engagement of the Consultant without assigning any reasons. In such cases the Consultant may be paid remuneration after taking into consideration the portion of work completed prior to such foreclosure, termination or cancellation of the engagement as may be decided by the Commission, and the decision of the Commission shall be conclusive and binding. The remuneration so fixed and paid shall be deemed to be the final payment in such case.
- b) UPERC will also have full rights to seek a full refund from Consultant if they fail to perform to the satisfaction of UPERC.
- c) The Consultant shall indemnify and hold harmless, UPERC against any and all claims, demands, and / or judgments of any nature brought against UPERC arising out of services under this contract. The obligation of this paragraph shall survive the terminating of this contract.

12. PERFORMANCE STANDARDS

The Consultant would undertake to perform the services with the highest standards of professional and ethical competence and integrity. The Consultant shall promptly replace any employee assigned under this assignment that the Commission considers unsatisfactory at no extra charge; however, the replacement must be acceptable to the Commission.

13. SUB-CONTRACT ASSIGNMENT

In no case the Consultant shall sub-contract this assignment or part of it, without prior permission of the Commission.

14. CONFIDENTIALITY

No confidential information relating to this assignment (i.e., information other than what is already available in the public domain) shall be divulged by the Consultant to any other person

or agency without the written consent of the Commission. Strict secrecy will be maintained in respect of all confidential information and transactions between the Parties. Disclosures to a Government or a Court / Tribunal shall not be covered by this clause.

15. Last date of submission is 18-05-2018. The address for submission of applications and requesting for clarification is-

Secretary,
Uttar Pradesh Electricity Regulatory Commission,
2nd Floor, Kisan Mandi Bhawan, Vibhuti Khand,
Gomti Nagar, Lucknow – 226010
Phone: +91-522-2720426
Fax: +91-522-2720423
Email Id: secretary@uperc.org

(Sanjay Srivastava)
Secretary