



NOTIFICATION
Gurgaon, 11th February, 2010

No. JERC-8/2009-- In exercise of powers conferred on it by Section 181 of the Electricity Act, 2003 (36 of 2003), and all other powers enabling it in that behalf, the Joint Electricity Regulatory Commission, after previous publication, hereby makes the following regulations, namely:

1, Short title and commencement

- (1) These regulations may be called the Joint Electricity Regulatory Commission (Appointment of Consultants) Regulations, 2009.
- (2) These regulations shall come into force from the date of their publication in the Official Gazette.

2. Definitions. –

- (1) In these regulations unless the context otherwise requires: -
 - (a) "Act" means the Electricity Act, 2003 (36 of 2003);
 - (b) "Commission" means the Joint Electricity Regulatory Commission for the State of Goa and Union Territories;
 - (c) "Consultant" includes any individual - not in the employment of the Commission, firm, body or association of persons, who or which possesses or has access to any specialized knowledge, experience or skill;
 - (d) "Secretary" means the Secretary of the Commission.
- (2) Words or expressions occurring in these regulations and not defined herein but defined in the Act or in the Joint Electricity regulatory Commission (Conduct of Business) regulations, 2009 shall bear the same meaning as in the Act or in the said Conduct of Business Regulations.

3. Scope of Work

The Commission may from time to time appoint consultants for executing specialized tasks for which skills are either not available within the staff of the Commission or where the nature of job is specific and time-bound or where the Commission considers appointment of consultant to be conducive or more efficacious and efficient method of completing the task in terms of quality, cost, time or on any other consideration.

- (1) The terms and conditions of engagement of consultants will be drawn up in each case and agreed to between the consultant and the commission prior to award of consultancy.
- (2) The terms of engagement would specify the exact nature of the tasks to be undertaken by the consultant, the time allowed for completion of each task and the specific outputs that are to be provided by the consultant in relation to each work.

4. Period of Appointment

The consultant shall be appointed for the minimum period:

Provided that the period of initial appointment of a consultant on any specific assignment shall not normally exceed two years:

Provided further that period of appointment may be extended subject to the condition that the maximum period of continuous appointment of a consultant in no case shall exceed four years.

5. Categorisation of Consultants

The consultants shall be categorized as: (a) Institutional consultants, and (b) Individual consultants.

6. Institutional Consultant

Institutional consultant may be appointed where the Commission, on being satisfied that there is a need for availing consultancy services which, in its opinion, may be more appropriately provided by a firm, or a company or an association or body of persons.

7. Individual Consultant

Individual consultant may be appointed for assignments for which teams of personnel are not required, where the experience and qualifications of the individual are of paramount consideration and the Commission is of the opinion that the consultancy services can be more efficiently performed by an individual, having regard to the qualifications and experience considered relevant for the assignment.

8. Categorization of Individual Consultants

(1) Based on experience, individual consultants shall be categorized as

Category	Minimum Experience in the Area of Appointment
Advisors	15 years
Senior Consultants	10 years
Consultants	3 years

(2) The Commission may prescribe minimum educational qualifications, depending on the nature of the work, and the relevant professional qualifications related to subject area of the consultancy.

(3) The Commission may in appropriate case, for reasons to be recorded in writing, relax the educational qualifications, keeping in view the overall expertise of the person being considered for engagement as individual Consultant.

9. Fees and Other Charges in Case of Individual Consultants

(1) Except where the Commission directs otherwise, the individual consultant shall be appointed generally on a consolidated fee at the rates specified in the Schedule.

Provided that the Commission may from time to time by an order in writing, direct revision of the rates of fee specified in the Schedule.

(2) No payments in addition to the consolidated fee in accordance with sub-regulation (1) shall be made in the case of individual consultant:

Provided that the Commission may allow an additional amount not exceeding 10% of the fee payable to the consultant to cover expenditure of contingent nature.

(3) Where the consultant has to incur expenditure on travel to and stay at a place away from the headquarters of the Commission, the Commission shall reimburse the cost of travel by an appropriate class, not lower than that permitted to a Group A Officer of the Central Government and authorize payment of Daily Allowance, as specified in the schedule, in addition to fee and other charges payable under these regulations, for such number of days as the Commission may consider appropriate.

(4) The fee and other charges payable to individual consultants under these regulations shall also be payable to former and retired Government servants appointed as consultants.

(5) In the case of an institutional consultant the rates for different categories of individual consultants will be used as a broad guide line to determine the reasonableness of costs

allocated to consultant time in the proposal. In addition to the costs for consultant time, amount allowable for overheads on account of office expenditure like telephone, photocopying, fax expenses etc. will be subject to negotiation and broadly be based on actual position regarding these expenditures. The limit for contingency in the case of Institutional consultant will be 10% of the fees payable for consultant time besides the amount allowed as overhead for office expenses.

10. Appointment of Consultant

- (1) The Commission, on being satisfied that there is a need to avail services of the consultant for any task, shall direct the Secretary to prepare or cause to be prepared the details terms of reference.
- (2) The Commission may decide either to invite combined technical and financial proposals or separate technical and financial proposals.
- (3) The Commission may prescribe the minimum qualifying marks for the technical bid.
- (4) The Secretary shall prepare or cause to be prepared the detailed terms of reference for the appointment of consultant for any specific task and shall obtain approval of the Commission.
- (5). The terms of reference shall be prepared to specify the objectives, goals and scope of the assignment and provide background information including a list of existing relevant studies and basic data to facilitate the consultant in preparation of his proposal:

Provided that the terms of reference shall also list the services and surveys necessary to carry out the assignment and the expected outputs (for example reports, data, surveys etc.) linked to each task included in the terms of reference.

Provided further that where transfer of knowledge, training is an objective, the terms of reference shall detail the number of staff to be trained.

- (6) The Secretary prior to processing the proposal for obtaining approval of the Commission shall ensure that the necessary budgetary provisions exist for the proposal to appoint consultant.
- (7) The scope of the services described in the TOR shall be compatible with the available budget.
- (8) After approval of the terms of reference by the Commission, the Secretary shall issue or cause to be issued the request for proposals to invite proposals for appointment as

consultant and give such publicity as may be considered appropriate by the Commission
Provided that the Commission may dispense with the process of issuing public advertisement where the fee payable for an assignment does not exceed Rs.5 lakhs.

11. Request for proposals

The request for proposals shall include the following: -

- (1) A letter of invitation stating the intention of the Commission to enter into a contract for provision of consultancy services, the details of the plan and the date, time and address for submission of proposals.
- (2) Information to the consultants shall contain all necessary information that will help them to prepare responsive proposals by providing information on the evaluation process and by indicating the evaluation criteria and factors and their respective weights and the minimum pre-qualification score and special qualifying clause if any.
- (3) Terms of reference as prepared in regulation 10 (5) above.

12. Receipt of proposals

- (1) The Commission shall prescribe the time within which the consultants shall submit their proposals.
- (2) The Commission may where considered appropriate extend the time limit for submission of proposals.
- (3) No amendment to the technical or financial proposals shall be accepted after expiry of the time limit.
- (4) The proposals shall be submitted in sealed cover.
- (5) Where the Commission prescribes that separate technical and financial proposals be submitted, they shall be submitted in separate sealed envelopes.

13. Evaluation of proposals

- (1) The proposal shall be evaluated both on the basis of quality as well as cost.
- (2) The proposal shall be evaluated by a Committee appointed by the Commission .
- (3) Where the Commission decides that the technical and financial proposals be evaluated separately, the Committee shall not have access to the financial proposals, until evaluation of the technical proposals is completed.

14. Technical Evaluation

- (1) Technical evaluation will be done by the Committee appointed under regulation 13(2) above taking into account the criteria given under sub-regulation (2) below.
- (2) Each criterion shall be marked on a scale of 1 to 100 and then the marks for each criterion shall be weighted to become average technical scores. Weights in the following ranges will be used by the Committee, with the approval of the Commission, to calculate the weighted average technical score for each proposal:-

Criterion	Range of Weights
Consultant's relevant experience for the assignment	0.10 to 0.40
Quality of the methodology proposed	0.20 to 0.50
Qualifications of the key staff proposed	0.30 to 0.60
Extent of transfer of knowledge to the staff of the Commission	0.05 to 0.35

Note: The mix of weights approved by the Commission will total to 1.

- (3) Where the assignment depends critically on the performance of the key staff, the proposal shall be evaluated on the qualifications of the individuals proposed to be appointed using the following criteria: -
 - (a) General qualifications: General education and training, length of experience, positions held, time with the consulting firm as staff, experience in developing countries etc.
 - (b) Adequacy for the assignment: Education, training, experience in the specific sector, field, subject and relevance to the particular assignment.
 - (c) Regional Experience: knowledge of the administrative system, organization and culture at the local / regional level.
- (4) After the technical evaluation is completed the Commission shall inform those Consultants whose proposals did not meet the minimum qualifying mark or were considered non-responsive to the terms of reference, and their financial proposals will be returned unopened after completing the selection process. The Commission shall have the right of distribution of marks on the basis of nature and requirement of the assignment.

Simultaneously, those Consultants who have secured the minimum qualifying marks shall be informed about the date and time for

opening the financial proposals, giving sufficient time for the Consultants to be present at the opening should they so desire.

15. Financial Evaluation

- (1) The financial proposals of the pre-qualified Consultants will be opened by the committee in the presence of consultants or their representatives whose bids are shortlisted for financial evaluation. The proposed prices shall be read aloud and recorded in minutes of the proceedings.
- (2) The Secretary will cause a review of the financial proposals to be done. The cost will be converted to a single currency using uniform selling (exchange) rates.
- (3) The proposal with lowest cost will be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices.

16. Evaluation of financial and technical scores

- (1) The total score shall be obtained by weighting the technical and financial scores and adding them and the consultant with highest total score shall be invited by the Commission to enter into a contract within the prescribed time limit. The weight for the financial score shall be as prescribed by the Commission in each case taking into account the complexity of the assignment and the relative importance of quality. However, the weight will never exceed 0.3 for the financial score in any case.
- (2) The Commission may reject any or all proposals if they are found to be unresponsive or unsuitable either because they represent major deficiencies in complying with the terms of reference or they involve cost substantively higher than the original estimate.

17. Single source selection

Single source selection may be resorted to by the Commission in appropriate cases where it represents a clear advantage because the tasks represent a natural continuation of previous work carried out by the consultant, or where an urgent selection is essential, or for small assignment where the fee payable does not exceed Rs. 5 lakhs or where only one firm is qualified or has experience for the assignment.

18. Selection of individual Consultants

Individual consultants may be selected on the basis of their qualifications and experience for the assignment. They may be selected on the basis of references or from amongst those who are approached directly by the Commission. Their suitability shall be judged on the basis of

academic background, experience and, as appropriate, knowledge of local conditions, administrative system and government organization.

19. Conflict of interest

Consultant shall not be hired for any assignment that would be in conflict with his prior or current obligations to other clients or that may place them in a position of not being able to carry out the assignments objectively and impartially.

20. Appointment of Consultants

The consultant selected for appointment shall be required to execute an agreement in the format given at the end of these regulations, with such variations and modifications considered appropriate in individual cases.

21. Saving of inherent power of the Commission

Nothing in these provisions shall bar the Commission from adopting a procedure which is at variance with any of the provisions of these Regulations, 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 prescribed in these Regulations.

22. 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 meeting the objectives with which these Regulations have been framed.

23. 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.

(J.S. Sehrawat)
Secretary

SCHEDULE

Fee for Individual Consultants

Category	Maximum Fee per man-day	Daily Allowance*
Advisors	Rs. 5000	Actual for boarding and lodging expenses
Senior Consultants	Rs. 4,000/-	Actual for boarding and lodging expenses
Consultants	Rs. 2,000/-	Actual for boarding and lodging expenses

* **Note:** The Commission reserves the right to specify the exact amounts permissible as daily Allowance, determine the reasonable limits within which actual expenses are to be allowed, on a case-to-case basis, and assess the reasonableness of any claim submitted thereof.

SCHEDULE

Articles of Agreement made on this _____ day of _____ between _____ of _____ of one (first) part (Consultant) and the Joint Electricity Regulatory Commission (herein after called “the Commission”) of the other (Second) part.

Whereas the Commission has engaged the party of the first part as a Consultant and the party of the first part has agreed, to provide the consultancy services to the Commission, on the terms and conditions herein after contained.

Now these presents witness and the parties hereto respectively agree as follows:

- 1) The party of the first part (Consultant) shall submit himself to the orders of the Commission and of the officers and authorities under whom he may from time to time be placed by the Commission.
- 2) The party of the first part (Consultant) shall complete the assignment as contained in Schedule – ‘A’ within a period of _____ commencing from _____
- 3) The party of the first part (Consultant) shall be paid as under
- 4) The schedule of payments shall be as under
- 5) No TA/DA shall be admissible to the party of the first part for local journeys in connection with the consultancy assignment. (may be varied depending on terms agreed for any individual assignment)
- 6) The payment of fee shall be made by the Commission after the deduction of tax at source in accordance with law for the time being in force.
- 7) Any information of confidential nature, which comes to the knowledge or into the possession of the consultant or of any its employees by virtue of the engagement subject matter of this contract shall not be disclosed by the consultant or its employees to any unauthorized person in any manner. Any breach of this clause without prejudice to any other action that may be initiated according to law, shall also subject the consultant to a liability to pay to the Commission such compensation as may be decided by the Commission keeping in view the nature, manner and motive of the information disclosed and the extent of the damage caused by such unauthorized disclosure.

- 8) The party of the first part undertakes that this assignment shall not be in conflict with its prior or current obligation to other clients nor shall it place itself in a position of not being able to carry out the assignments objectively and impartially.
- 9) In case of any default on the part of the party of the first part in completion of the work within time schedule agreed to between the parties as herein above, the party of the second part (the Commission) shall be at liberty to get the work completed from any other agency at the risk and cost of the party of the first part (Consultant).
- 10) The Commission reserves its right to foreclose, terminate or cancel the engagement of the consultant without assigning any reasons. In such cases party of the first part (Consultant) shall be paid remuneration after taking into consideration the portion of work completed prior to such foreclosure, termination or cancelation 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 cases.
- 11) In case of any differences or disputes between the parties arising out of this AGREEMENT, the same shall be referred for arbitration of a person nominated by the Commission. The proceedings shall be subject to the Arbitration and Conciliation Act 1996, as amended from time to time.

12) Consultant's Personnel

The party of the first part (Consultant) shall provide Description of personnel with names, position and qualifications.

13) Removal and/or replacement of the personnel

Except as the Commission may otherwise agree, no change shall be made in the key personnel. If, for any reason, beyond the reasonable control of the Consultant, it becomes necessary any of the key personnel, the Consultant shall forthwith provide as a replacement a person of equivalent or better qualifications, which is acceptable to the Commission.

- 14) If the Commission finds that any of the personnel (1) committed serious misconduct or has been charged with having committed a criminal action or (2) have reasonable cause to be dissatisfied with the performance of any of the personnel, then the Consultant shall, at the Secretary's written request, specifying the ground therefore, forthwith provides as a replacement a person with qualification and experience acceptable to the Commission. The Consultant shall have no claim for additional costs arising out of or incidental to any removable and /or replacement of personnel.

15) Nodal Person of the party of the first part (Consultant) Mr. _____

16) The Secretary, Joint Electricity Regulatory Commission, shall be the Nodal Officer on behalf of the Commission.

17) Any other terms and conditions

18) In respect of any matter for which no provision has been made in this agreement, the provisions contained in the general instructions of the Government of India on the subject of engagement of consultants shall apply.

IN WITNESS WHERE OF the party of the first part (Consultant) and _____ to the Commission on behalf of the Commission have hereto put their hands on the day and the year first above written.

Signed by _____ the party of the first part in the presence of _____

Signed by _____ to the Commission for and on behalf of the Commission in the presence of _____