

5. APPROPRIATE COMMISSION

5.1. Subject to the provisions of the Electricity Act, 2003, Appropriate Commission would be as under:

- a) In case the Blended Wind Power Project supplying power to Distribution licensee(s) of one State, the Appropriate Commission, for the purpose of these bidding Guidelines, shall be the State Electricity Regulatory Commission of the concerned State where the distribution licensee(s) is located.
- b) In case the Blended Wind Power Project supplying power to Distribution licensee(s) of more than one State, the Appropriate Commission, for the purpose of these bidding Guidelines, shall be the Central Electricity Regulatory Commission.
- c) For cases involving sale of power from generating companies owned or controlled by Central Government, the Appropriate Commission shall be the Central Electricity Regulatory Commission.

6. PREPARATION FOR INVITING BID AND PROJECT PREPAREDNESS

The Intermediary Procurer shall meet the following conditions:

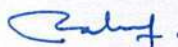
6.1. Bid Documentation:

- a. Prepare the bid documents in accordance with these Guidelines.
- b. Inform the Appropriate Commission about the initiation of the bidding process.
- c. Seek approval of the Appropriate Commission for deviations, if any, in the draft RfS, draft PPA, draft PSA from these Guidelines, in accordance with the process described in Clause 23 of these Guidelines.
- d. If the Procurer while preparing the draft RfS, draft PPA, draft PSA and other Project agreements provides detailed provisions that are consistent with these Guidelines, such detailing will not be considered as deviations from these Guidelines even though such details are not provided in the Guidelines.
- e. The Intermediary Procurer may disclose in the RfS, the prevailing incentives available to the Blended Wind Power Generator(s).
- f. The bids shall be called in accordance with the procurement rules of Intermediary Procurer.

6.2. Site-related project preparatory activities including clearances:

In order to ensure timely commencement of supply of electricity, the bidder would be required to submit documents in respect of matters as mentioned below, as per the time schedule specified in the bidding documents:

- a. Land acquisition: Submission of documents / Lease Agreement to establish possession and right to use 100 % (hundred per cent) of the required land in the name of the Blended Wind Power Generator for a period not less than the complete term of PPA, on or before the Scheduled Commissioning Date (SCD). Wherever leasing of private land is involved, the lease should allow transfer of land lease rights to the lenders or Procurer, in case of default of the Blended Wind Power Generator.
- b. No Objection Certificate (NoC)/ Environmental clearance (if applicable) for the Project.
- c. Forest Clearance (if applicable) for the Project.
- d. No objection certificate (NoC) from Ministry of Defence (if applicable).



- e. A letter from State Transmission Utility (STU)/ Central Transmission Utility (CTU), as applicable, confirming technical feasibility of connectivity of the plant to STU/ CTU substation.
- f. Any other clearances (if any), as may be legally required.

7. BID STRUCTURE

7.1. Bid Size: The total contracted power capacity of the bid shall be 2500 MW. A bidder is allowed to bid for a minimum 50 MW project at one site. The Procurer may also choose to specify the maximum capacity that can be allotted to a single bidder including its Affiliates. The maximum capacity for single bidder or company or group of companies may be fixed by the Intermediary Procurer keeping in mind factors such as economies of scale, land availability, expected competition and need for development of the market.

7.2. Bidding Parameters: For procurement of power, the tariff quoted by the bidder shall be the bidding parameter.

8. POWER PURCHASE AGREEMENT

The draft PPA proposed to be entered into with the successful bidder and draft PSA shall be issued along with the RfS. Standard provisions to be incorporated as part of the PPA shall include *inter alia* following:

8.1. PPA Period: The PPA period influences the tariff by determining the period over which the investment is returned to the investor and longer PPA period results in lower tariffs. Keeping in view the need for having lower tariffs in the interest of consumers, the PPA period should therefore be not less than 25 years from the SCD or from the date of full commissioning of the projects, whichever is earlier. The PPA may be further extended on such term and conditions as mutually agreed between the parties signing the PPA and approved by Appropriate Commission, provided the arrangements with the land and infrastructure owning agencies, the relevant transmission utilities and system operators permits operation of the Blended Wind Power Project beyond the initial PPA period of 25 years. Further, in case the PPA is not mutually extended the Blended Wind Power Generator(s) are free to operate their plants after the expiry of the PPA period provided the relevant arrangements with the land and infrastructure owning agencies, transmission utilities and system operators permits operation beyond the initial PPA period of 25 years.

8.2. Capacity Utilization Factor (CUF):

8.2.1. The Generator(s) will declare the annual CUF of its Project at the time of bid submission and will be allowed to revise the same once within first three years of COD. Calculation of CUF will be on yearly basis from 1st April of the year to 31st March of next year. The declared annual CUF shall in no case be less than 30 *per cent*. The Generator(s) shall maintain generation so as to achieve annual CUF not less than 90% of the declared value (i.e. Minimum CUF) and not more than 120% of the declared CUF value (i.e. Maximum CUF), during the PPA duration of 25 years. The lower limit will, however, be relaxable to the extent of non-availability of grid for evacuation of power, which is beyond the control of the Generator. For the first year of operation of the project, the annual CUF shall be calculated for the complete year after COD of the Project. Subsequently, the annual CUF will be calculated every year from 1st April of the year to 31st March next year.

8.2.2. In case the project supplies energy less than the energy corresponding to the minimum CUF, the Generator will be liable to pay to the Procurer, compensation for the shortfall in availability of energy. This will, however be relaxable to the extent of grid non-availability for



evacuation, which is beyond the control of the Generator. The amount of such compensation will be calculated @ 50% (fifty *per cent*) of the PPA tariff for the shortfall in energy terms, in accordance with the terms of the PPA. Such compensation as recovered from the Generator shall be passed on by the Intermediary Procurer to the End Procurer.

8.2.3. In case of availability of energy more than the maximum annual CUF specified, Generator will be free to sell it to any other entity provided first right of refusal will vest with the Procurer(s). The procurer(s) shall provide refusal within 30 (thirty) days from the receipt of the request, beyond which it may be considered as deemed refusal of purchase of such excess generation. In case the Procurer purchases the excess generation, the same may be done at the PPA tariff, and provision to this effect shall be clearly indicated in the RfS document.

8.3. Repowering: The Blended Wind Power Generator(s) will be free to re-power their capacity as per Repowering Policy of GoI, during the PPA duration. However, after repowering the ratio of both the resources (wind & solar) shall be kept as per clause 3.1. Further, the Procurer will be obliged to buy power only as per terms of PPA and any excess generation would be sold in accordance of terms and conditions of repowering programme/ tender.

8.4. Payment Security: The Procurer(s) shall provide adequate payment security measures, as specified below:

a) **Payment Security by Intermediary Procurer to the Generator:** The Intermediary Procurer shall provide payment security to the generator through:

i. **Revolving Letter of Credit (LC)** of an amount not less than one months' average billing from the Project under consideration;

AND

ii. **Payment Security Fund**, which shall be suitable to support payment of at least three months' billing of all the Projects tied up with such fund.

b) **Distribution licensee to Intermediary Procurer:** The **Payment Security by Distribution** licensee shall provide payment security to the Intermediary Procurer through:

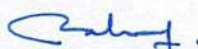
i. **Revolving Letter of Credit (LC)** of an amount not less than one months' average billing from the Project(s) under consideration;

AND

ii. **State Government Guarantee**, in a legally enforceable form, such that there is adequate security, both in terms of payment of energy charges and termination compensation if any. [*for the purpose of this clause, the Tri-Partite Agreement (TPA) signed between Reserve Bank of India, Central Government and State Government shall qualify as State Government Guarantee covering the security for payment of energy charges*]. The Intermediary Procurer shall ensure that upon invoking this guarantee, it shall at once, pass on the same to the Generator; to the extent the payments to the Generator in terms of the PPA are due.

iii. In addition to i) & ii) above, the Distribution licensee may also choose to provide **Payment Security Fund**, which shall be suitable to support payment of at least three months' billing of all the Projects tied up with such fund.

It is hereby clarified that the State Government guarantee shall be invoked only after the Intermediary Procurer has been unable to recover its dues under the PPA by means of the Letter of Credit and the Payment Security Fund, if any.



8.5. Change in Law / Regulations

8.5.1. In the event a change in Law/ Regulations which results in any adverse financial loss/ gain to the Generator, then in order to ensure that the Generator is placed in the same financial position as it would have been had it not been for the occurrence of the change in Law/ Regulations, the Generator/ Procurer shall be entitled to compensation by the other party, as the case may be, subject to the condition that the quantum of compensation payment shall be determined and shall be effective from such date as may be decided by the Appropriate Commission. Any relief on account of Change in Law/ Regulation shall be provided in terms of modification in the PPA tariff.

8.5.2. In case change in Law / Regulations results in delay in commissioning, where cause and effect between these two can be clearly established, the Intermediary Procurer may provide suitable extension to commissioning of the project.

8.5.3. In these Guidelines, the term 'Change in Law/ Regulation' shall refer to the occurrence of the following events, after the last date of the bid submission, including (i) the enactment of any new Law/ Regulation; or (ii) an amendment, modification or repeal of an existing Law/ Regulation; or (iii) the requirement to obtain a new consent, permit or license; or (iv) any modification to the prevailing conditions prescribed for obtaining a consent, permit or license, not owing to any default of the Generator; or (v) change in the rates of any taxes which have a direct effect on the Project.

However, Change in Law shall not include any change in taxes on corporate income or any change in any withholding tax on income or dividends.

8.6. Force Majeure

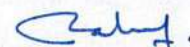
The PPA shall contain provisions with regard to *force majeure* definitions, exclusions, applicability and available relief on account of *force majeure*, as per the industry standards. The Generator shall intimate the SECI about the occurrence of *force majeure* within 15 (fifteen) days of the start/occurrence of the *force majeure* and SECI shall take a decision on his claim and reply within 30 days of the receipt of the intimation and also communicate to Procurer(s).

8.7. Generation Compensation for Off-take Constraints

The Procurer may be constrained not to off-take the power scheduled by Generator on account of Grid unavailability or in the eventuality of a Back-down.

8.7.1. Generation Compensation in offtake constraints due to Grid Unavailability:

During the operation of the plant, there can be some periods where the plant can generate power but due to temporary transmission unavailability power is not evacuated, for reasons not attributable to the Generator. In such cases the generation compensation shall be calculated corresponding to the average generation loss, beyond the limit of Grid Unavailability, on a monthly basis and shall be addressed by the Procurer in accordance with relevant Regulations.



Duration of Grid unavailability	Provision for Generation Compensation
Grid unavailability in a billing month beyond the limit* prescribed by CERC Regulation in a Contract Year	<p>Generation Loss = [(Average Generation per hour during the billing month) × (number of hours of grid unavailability beyond the limit prescribed by CERC Regulation during that particular billing month)]</p> <p>Where, Average Generation per hour during the billing month (kWh) = Total generation in the billing month (kWh) ÷ (24 X number of days in that particular billing month - total hours of grid unavailability in that particular billing month)</p>

*In case the limit is not defined under Regulation, it should be treated as 50 hours in a Contract Year

8.7.2. Offtake constraints due to Back down: Governments encourages status of ‘must-run’ to wind and solar power projects, which is reflected both in Indian Electricity Grid Code (IEGC) as well as State Grid Codes/ Regulations. Therefore, the wind and solar projects, duly commissioned, should not be directed to back down by a DISCOM/ Load Dispatch Centre (LDC) except for reasons of grid security or safety of any equipment or personnel, where justification should be duly recorded and be notified to project developer in writing, which can be verified by any third party agency. No back-down / curtailment shall be ordered without giving formal/ written instructions for the same. The details of back-down / curtailment, including justifications for such curtailment, specifying data to back such curtailment, should be made public, including by putting in their website, by the concerned Load Dispatch Centre.

In the event of any Backing down, except in the cases where the back down is due to grid security or safety of any equipment or personnel or such other conditions, the Generator shall be eligible for a Generation Compensation, from the Procurer, in the manner detailed below.

Duration of Backdown	Provision for Generation Compensation
Hours of Backdown during a monthly billing cycle.	<p>Generation Compensation = 100% x (Average Generation during the month corresponding to the capacity backed down) x PPA Tariff</p> <p>Where, Average Generation during the month corresponding to the capacity backed down (kWh) =</p> <p>(CUF during the month) x Σ (Backed down capacity in MW x corresponding time of backdown in hours x 1000)</p>

The Generation Compensation as calculated above will be limited to the extent of shortfall in annual generation corresponding to the declared CUF permitted as per clause 8.2.1. The Generation Compensation is to be paid as part of the energy bill for the successive month after receipt of Regional Energy Accounts (REA). No trading margin shall be applicable on this Generation Compensation.

Possible conditions for exclusion of Generation Compensation, on account of Backdown purposes, shall be clearly specified in the RfS and the PPA.

