

to procure transmission service with substantial difference in one or more of the following aspects as compared to Standard Bid Documents:

- i. Scope, quality, or performance standards of the transmission service;
- ii. Rights, roles and obligations of the TSP and Nodal Agency
- iii. Qualification Requirement
- iv. Values of Bid Bond, Contract Performance Guarantee & Liquidated Damages

4.2. Intimation shall be sent by the BPC to the Appropriate Commission about initiation of the bidding process.

4.3. The bid documents shall also include Project Profile and survey report. The Project Profile (PP) must contain relevant data regarding the line i.e. voltage level, line configuration i.e S/C or D/C, functional specifications of conductor etc. and functional specifications of the substations or converter stations (in case of HVDC line). The survey report shall have one suggested route with approximate route length, type of terrain, max. altitude, snow zones, Wind zones, forest / wildlife infringement, infringement of endangered species habitat, vicinity to civil and defence Airports, major river/sea crossings & coal/ mineral mine areas likely to be encountered and location of substations or converter stations.

4.4. For location specific substations, switching stations or HVDC terminal or inverter stations the BPC should initiate the process of acquisition of land. The BPC will also initiate the process of seeking forest clearance, if required.

## **5. Transmission Service Provider (TSP)**

5.1. The Special Purpose Vehicle (SPV) incorporated by BPC shall be designated as the Transmission Service Provider (TSP), hereinafter referred to as the TSP, after submitting a contract performance guarantee and acquiring the SPV by the successful bidder. The TSP shall seek transmission license from the Appropriate Commission.

5.2. The TSP would take-up execution of the Transmission Project so as to complete commissioning and operationalization of the transmission system as per the specified schedule in the TSA.

## **6. Recovery of Transmission Charges**

6.1. Total charges for the transmission system provided by the TSP(s) selected through the e-reverse bidding process as per these guidelines, payable to the TSP, shall be determined as specified in paras 7.1, 7.2, 7.3, 7.4 and 7.5 of these guidelines.

6.2. Recovery of transmission charges from the DICs/LTTCs such as State supply utilities, distribution companies, generation companies, traders, bulk consumers, etc., shall be done as provided in these guidelines and relevant regulations of the Appropriate Commission as notified from time to time.

## **7. Transmission Charge Structure**

7.1. **For procurement of transmission services under these guidelines:** Transmission charges shall be paid and settled for each payment period as per regulations of the Appropriate Commission. Annual transmission charges for the first year, which shall remain fixed for the period of 35 years from COD of project, shall form the basis for bidding and evaluation.

7.2. The BPC shall specify scheduled month of commercial operation for the transmission system required for the transmission service.

7.3. The monthly tariff payable shall be annual tariff multiplied by no. of days in that month and divided by no. of days in the year.

7.4. Tariff shall be designated in Indian Rupees only. Foreign exchange risks, if any, shall be borne by the TSP.

7.5. The bidder with the lowest annual transmission charges discovered after the e-reverse bidding procedure will be considered for the award. The Evaluation Committee shall have the right to reject all price bids if the rates quoted are not aligned to the prevailing prices.

## **8. Payment Security Mechanism**

8.1. The payment security for inter state transmission projects shall be as per Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations as amended from time to time and shall be made available to the CTU by the DICs.

8.2. For intra State projects, payment security shall be made available to the TSP by the user of transmission services being provided by the TSP. The payment security may include:

- i. Irrevocable revolving Letter of Credit (LC)
- ii. other measures, including regulation of power of the defaulting user(s) of the transmission services.

## **9. Bidding Process**

9.1. For the procurement of transmission services under these guidelines, BPC shall adopt a single stage two envelope tender process featuring Request for Proposal (RFP). The bid documents shall be prepared in accordance with para 4.1 of these guidelines. The entire bidding process shall be conducted online through electronic medium under e-reverse bidding framework.

9.2. RFP notice should be published in at least two national newspapers, website of the BPC and preferably in trade magazines also, so as to accord it wide publicity. The bidding shall necessarily be by way of International Competitive Bidding (ICB). For the purpose of issue of RFP, minimum conditions to be met by the bidder shall be specified in the RFP.

9.3. BPC shall provide only written interpretation of the tender document to any bidder / participant, asking for the same, and the same shall be made available to all other bidders. All parties shall rely solely on written communication and acceptances from the BPC.

9.4. Standard documentation to be provided in the RFP shall include,

9.4.1. Definition of requirements, including:

- Brief description of the Project;
- Commissioning milestones to be achieved by the bidders;
- Qualification requirements to be met by bidders including, minimum net-worth, etc with necessary proof of the same, as outlined in the bid documents;

9.4.2. Specified target dates/months for commissioning and commercial operations. Construction time shall be as recommended by National Committee on Transmission depending on terrain, complexity of the project and line length etc., subject to a minimum of 18 months.

9.4.3. Standard Transmission Service Agreement (TSA). The TSP on the date of acquisition of SPV from the BPC will enter into a Transmission Service Agreement (TSA) with the Nodal Agency (in case of inter state projects) / the concerned utilities (in case of intra State projects).

In terms of Section 38(2) of the Electricity Act, for inter state transmission projects, CTU shall act as Nodal Agency to execute the Transmission Service Agreement and any other agreement(s), if required, under Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations as amended from time to time for providing the inter State transmission services, including sharing of transmission charges and losses amongst the DICs, collecting the transmission charges from the DICs and disbursing it to the respective Transmission Service Providers, as per the regulations framed by the Central Commission in this regard from time to time.

The Nodal Agency shall be entitled to recover its expenses from the DICs towards fulfilment of its roles and any other claims and/ or liability(ies) including that for termination payment,

indemnification under TSA. A suitable regulation shall be framed for recovery of such expenses of Nodal Agency.

Any payment or damages received by the Nodal Agency from the TSP, after deducting compensation payable as per CERC Sharing Regulations, for delay in achieving commissioning of Project shall be utilised to adjust the transmission charges to be paid by DICs as per the CERC Sharing Regulations. Further, all Designated Inter-State Customers (DICs) shall undertake following responsibilities to facilitate CTU in discharging its responsibilities:

- a) to coordinate the availability of the interconnection facilities to enable the TSP to connect the project; and
- b) for providing all assistance to the Nodal Agency as they may require for the performance of their duties and responsibilities.”

**9.4.4. Agreement(s) under Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations as amended from time to time.** In case of inter state projects, the TSP shall enter into agreement(s) required, if any, under Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations as amended from time to time within fifteen (15) days from the date of grant of Transmission License from the Commission.

9.4.5. Required Period of validity of offer of bidder;

9.4.6. **The TSA proposed to be entered with the SPV.** The TSA proposed at the RFP stage may be amended based on the project specific inputs received from bidders during the pre bid conference and it will be made available to all RFP bidders. No further amendments shall be carried out in the TSA;

9.4.7. **Bid evaluation methodology to be adopted by the BPC.** The initial price offer submitted online with the RFP shall be evaluated based on annual transmission charges for all components covered under the package as quoted by the bidder. The transmission charges of initial offer shall be ranked on the basis of ascending order for determination of the qualified bidders. Bidders in the first 50% of the ranking (with any fraction rounded off to higher integer) in RFP stage or 4 (four) bidders, whichever is more shall qualify to participate in the e-reverse bidding. In case the number of responsive bidders in RFP stage is between 2 (two) to 4 (four), all will qualify to participate in the e-reverse bidding. In case only one Bidder remains after the responsiveness check, the initial offer of such Bidder shall not be opened and the matter shall be referred to the Government. In the event of identical transmission charges discovered from the initial offer having been submitted by one or more bidders, all such bidders shall be assigned the same rank for the purpose of determination of qualified bidders. In such cases, all the bidders who share the same rank till 50% of the ranks determined above, shall qualify to participate in the e-reverse bidding. In case, 50% of the ranks (with any fraction rounded off to higher integer) is having less than 4 (four) bidders and the rank of the fourth bidder is shared by more than 1 (one) bidder, then all such bidders who share the rank of the fourth bidder shall qualify to participate in the e-reverse bidding. The lowest transmission charges discovered from the initial offers will be the ceiling price for the next round i.e e-reverse bidding stage. During the e-reverse bidding stage, the qualified bidders in the RFP stage would be required to place their bids at least 0.25% lower than the prevailing lowest bid, as long as they wish to continue in the reverse auction. The initial period for conducting the e-reverse bidding should be 2 hours which will be extended by 30 minutes from the last received bid time, if the bid is received during the last 30 minutes of the scheduled or extended bid time. Subsequently, it will be extended again by 30 minutes from the latest received bid time.

#### **Illustration**

- (i) *If there are 10 bidders who are holding ranks as L1, L2, L3, L4, L5, L6, L7, L8, L9, L10 in such a case the 50% of the ranks i.e. 5 is having 5 bidders. Accordingly, total 5 bidders i.e L1, L2, L3, L4, L5 will be qualified to participate in reverse auction.*

- (ii) *If there are 8 bidders who are holding ranks as L1, L1, L2, L2, L2, L3, L4, L5, in such a case the 50% of the ranks (rounded of to next higher integer) i.e. 3 is having 6 bidders. Accordingly, now total 6 bidders i.e. L1, L1, L2, L2, L2, L3 will be qualified to participate in reverse auction.*
- (iii) *If there are 8 bidders who are holding ranks as L1, L2, L3, L4, L4, L5, L5, L6, in such a case the 50% of the ranks i.e. 3 is having only 3 bidders and the rank of the fourth bidder is shared between 2 bidders. Accordingly, now total 5 bidders i.e. L1, L2, L3, L4, L4 will be qualified to participate in reverse auction.*

9.4.8. The RFP will also specify the bid bond as well as the Contract Performance Guarantee that the bidders will have to furnish.

9.4.9. The proposed indemnification arrangement between the TSP and the Nodal Agency (in case of inter state projects) / the TSP and the utilities (in case of intra state projects) will also be provided in the TSA. This indemnification will be applicable to both the TSP and the Nodal Agency/utilities from the effective date of the TSA.

9.4.10. The TSA shall also specify the liquidated damages that shall apply in event of delay in start of providing the transmission services.

9.4.11. The TSA shall also specify the technical, operational and safety criteria to be met by bidder/TSP.

9.4.12. The TSP will have to obtain Transmission License from Appropriate Commission in accordance with relevant regulations.

9.5. BPC may call a pre bid conference with all prospective bidders, who have sought documents for RFP stage. In case the bidders seek any project specific deviations and BPC finds that those deviations are reasonable, the BPC may agree to such deviations, with reasoning for acceptance of such deviations. The clarification/revised-bidding document shall be given to all who had sought the RFP document informing about the deviations and clarifications. Wherever revised bidding documents are issued, the BPC shall provide bidders at least fifteen (15) days after issue of such documents for submission of bids.

## **9.6. Bid submission and evaluation**

To ensure competitiveness, the minimum number of qualified bidders will be two.

### **9.7. Bid opening committee:**

9.7.1. For inter state transmission systems, the bids shall be opened in the office of CEA by a committee comprising of at least one member from CEA and one member from BPC. CEA and BPC can also nominate alternate member from their respective organization so as to ensure availability of one member each from both the organizations on the day of bid opening.

9.7.2. For intra state transmission systems, the STU/ State Government shall constitute a committee for opening of bids with similar composition as for inter state transmission systems or as deemed fit.

### **9.8. Bid evaluation committee:**

9.8.1. For inter state transmission systems, CEA shall constitute a committee for evaluation of the bids with at least one representative from CEA and not less than two representatives from the concerned Regional Power Committees and one independent member. Further, in case project is inter-regional, there shall be at least one representative from every concerned RPC. The independent member shall have expertise in financial matter/bid evaluation.

9.8.2. For intra state transmission systems, the STU/ State Government shall constitute a committee for evaluation of the bids with similar composition as for inter state transmission systems or as deemed fit.

9.9. The technical bids shall be examined to ensure that the bids submitted meet minimum eligibility criteria set out in the bid documents on all technical evaluation parameters. Only the bids that meet all elements of the minimum technical criteria set out in the bid documents shall be considered for further evaluation on the transmission charges bids.

9.10. The online initial price bids shall be electronically opened by the bid opening committee in presence of the bid evaluation committee. Only the lowest initial offer (s) shall be communicated to all the Qualified Bidders to participate in the e-reverse bidding process. During the e-reverse bidding process only the lowest prevailing bid should be visible to all the qualified bidders on the electronic platform.

9.11. The transmission charge bid shall be rejected if it contains any deviation from the bid documents for submission of the same.

9.12. The lowest transmission charges discovered from the quoted annual transmission charges during the e-reverse bidding process will be considered for the award. In case, no bid is received during the e-reverse bidding stage then the lowest initial offer shall be deemed to be the final offer.

## 10. Arbitration

10.1. In case of any dispute regarding TSA or tariff, the same will be subject to jurisdiction of the Appropriate Commission under the provisions of the Electricity Act, 2003.

## 11. Time Table for Bid Process

11.1 A suggested time-table for the Single stage bid process is indicated below. The procurer may give extended time-frame indicated herein based on the prevailing circumstances and such alterations shall not be construed to be deviation from these guidelines.

Event	Elapsed Time from zero date
Publication of Gazette Notification for BPCs	Zero Date
Publication of RFP	2 days
Bid clarification, conferences etc. & revision of RFP	40 days
Technical and initial offer submission	65 days
e-reverse bidding after opening of the initial offer	75 days
Short-listing of bidder and issue of LOI	8 days post close of e-reverse bidding process
Signing of Agreements	10 days post issuance of LOI

## 12. Contract award and conclusion

12.1. After selection and issue of the Letter of Intent (LOI) from the BPC, the selected bidder shall execute the share purchase agreement to acquire the SPV created for the Project to become TSP in accordance with the terms and conditions as finalized in the bid document and execute the TSA. In addition, in case of interstate projects, the TSP shall also execute the agreement(s) required, if any, under Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations as amended from time to time within fifteen (15) days from the date of grant of Transmission License from the Commission.

12.2. The TSP shall make an application for grant of transmission license to the Appropriate Commission within five (5) working days from the date of execution of share purchase agreement for acquisition of SPV.

12.3. The BPC shall make the final result of evaluation of all bids public.

12.4. The final TSA, along with the certification by the bid evaluation committee, shall be forwarded to the Appropriate Commission, for adoption of tariff discovered from the quoted annual transmission charges during the e-reverse bidding process in terms of Section 63 of the Act.

**13. Termination of Transmission Service Agreement**

13.1. The Transmission Service Agreement may be terminated by Nodal Agency upon occurrence of any event, as detailed in Transmission Service Agreement.

13.2. Upon termination of Transmission Service Agreement, the Nodal Agency may take steps to bid out the Project again.

**14. Repeal and Saving**

14.1. The “Tariff based Competitive-bidding Guidelines for Transmission Service” issued on 13th April, 2006 as amended from time to time, are hereby repealed.

14.2. Provided, however, that any agreement signed or action taken prior to the date hereof shall not be affected by such repeal of the said Guidelines of 2006 and shall continue to be governed by the Guidelines repealed hereunder.

MRITUNJAY KUMAR NARAYAN, Jt. Secy.