

No. UPERC/Secy./Regulation/003

Dated Lucknow, November 29, 2023

In exercise of powers conferred under Section 181 read with Section 91(4) of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, and after previous publication, the Uttar Pradesh Electricity Regulatory Commission hereby makes the following regulations, namely: - **1.**

Short Title and Commencement-

(1) These regulations may be called the Uttar Pradesh Electricity Regulatory Commission (Appointment of Consultants) Regulations, 2023.

2. Definitions-

(1) In these regulations unless the context otherwise requires-

(a) "Act" means the Electricity Act, 2003;

(b) "Chairperson" means the Chairperson of the Commission;

(c) "Member" means the Member of the Commission;

(d) "Commission" means the Uttar Pradesh Electricity Regulatory Commission;

(e) "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;

(f) "Consultancy Evaluation Committee" or "CEC" means the committee constituted under Regulations 6, 7 and 9;

(g) "Officer" means the officer of the Commission;

(h) "Secretariat" means secretariat of the Commission which includes Officer(s) having knowledge in the area of work for which the consultancy services are to be obtained;

(i) "Secretary" means the Secretary of the Commission.

(2) Save as aforesaid and unless repugnant to the context or if the subject matter otherwise requires, words or expressions used in these regulations and not defined herein, but defined in the Act, shall have the same meaning as in the Act.

3. Scope of Work-

(1) Consultants may be engaged for the following purposes, namely, -

(a) Providing expert advice on specific issues of relevance and interest to the Commission;

(b) Conducting study of best practices, analyzing data, developing benchmarks, or for any other similar purpose;

(c) Performance of tasks requiring experience and qualifications which are either not available within the Commission or, in the opinion of the Commission, the engagement of consultant shall be a more efficacious and efficient method of completing the task in terms of quality, time or for any other consideration;

(d) Assisting the Commission in performing their functions, if the Commission is satisfied that there has been increase in quantum of work in the Commission or regular posts could not be filled due to various constraints;

(e) Performing such other functions and for generally assisting the Commission in the performance of its functions, if the Commission considers it necessary.

4. Period of Engagement-

Consultants shall be engaged for the minimum period as required and in no case engagement of consultant shall exceed a continuous period of four years.

5. Categorization of Consultants-

Consultants shall be categorized as:

(a) Professional Consultancy Firms;

(b) Individual Consultants ;

(c) Retired Government Employees;

(d) Professional Experts.

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6. Professional Consultancy Firms-

(1) 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 or when team work comprising of more than two resources from diverse background such as technical, regulatory, finance and legal *etc.* are required to efficiently perform any particular assignment, may decide to engage professional consultancy firms which have proven past experience of similar assignments across various states and stakeholders.

Mention of professional consultancy firm in this Regulation shall also include consortium.

(2) The Secretariat shall prepare the bid documents including the terms of reference indicating among others the scope of the work, various deliverables, milestones and the schedule of payments linked to achievement of each milestone and draft contract.

(3) The Chairperson shall constitute the CEC comprising the Secretary, Senior Finance and Accounts Officer/Account Officer, and an appropriate Officer of the rank of Director as nominated by the Chairperson.

(4) The CEC shall, after necessary modification, if any, obtain approval of the Commission for the bid documents including the terms of reference for engagement of a consultant.

(5) The CEC, shall decide the weightage to be allocated to each of the parameters for the purpose of evaluation of bids, allocating minimum 70% weightage to technical proposal of the bid documents:

Provided that the limit of allocation of 70% weightage to technical proposal may be increased subject to a maximum of 80% if the Commission feels it appropriate based on the nature of assignment.

(6) After finalizing the weightages under clause (5), the Secretary shall invite single stage bids, containing technical and financial proposals in separate sealed envelopes, through publication of notice in at least two news papers 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, the period of notice may be reduced to less than three weeks but shall not be less than two weeks, as may be decided with the approval of the Chairperson.

(7) The CEC shall evaluate the bids through 'Combined-Quality-Cum-Cost-Based System' based on the pre-determined weightages allocated to each of the parameters:

Provided that the CEC shall not proceed with 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 prior approval of the Commission in case the adequate number of bids are not received.

(8) The professional consultancy firm shall be engaged after obtaining the approval of the Commission.

(9) The appointment of the professional consultancy firm shall be either on retainerhip or milestone linked based on the nature of assignment and shall be specified in the bid documents.

(10) The professional consultancy firm appointed for an assignment based on the procedure specified in this Regulation shall deploy number of resources as specified in the bid documents.

(11) 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 professional consultancy firm on the basis of single sourcing without tender process.

(12) Notwithstanding anything contained in this Regulation, for consulting assignments in Commission, the CEC with the approval of the Commission may shortlist and prepare a panel of professional consultancy firms/ agencies/ institutions/ universities based on evaluation on the pre-specified criteria as specified, of responses received against Expression of Interest through advertising on the Commission's website and newspaper advertisement. Enquiry for seeking Expression of Interest shall include among others, the broad type of consulting assignments, eligibility and the pre-qualification criteria to be met by the consultants, consultant's past experience in similar work or service. The number of short-listed professional consultancy firms/ agencies/ institutions/ universities shall be limited to a maximum of three.

The panel prepared by the CEC after approval of the Commission shall be valid for two years. The Commission may further extend the validity of the panel for one more year.

The Commission has the option to engage consultancy services either through milestone-based contracts or by selectively hiring individual experienced consultants of the firms in the panel in accordance with its specific needs. The Commission shall have the right to release the consultants deployed in case of lack of performance/ ability or unavailability of the individual and the firm will provide the replacement of the individual:

Provided that during the validity of panel, the financial bids shall be invited from the panel and the firm shall be engaged on the basis of 'Least Cost System' after obtaining approval of the Commission.

(13) The Commission on being satisfied, may decide to enter into a memorandum of understanding with Nationally or Internationally reputed institutions to benefit from their expertise in discharge of its functions, on payment of such fee and on such other terms as may be considered appropriate.

(14) The Commission may engage the services of a law firm on such terms & conditions as may be decided from time to time, for seeking expert legal advice on various matters under consideration of the Commission.

7. Individual Consultants-

(1) The Commission, on being satisfied that there is a need for availing consultancy services which in its opinion can be more efficiently performed by individuals, having qualification and experience considered essential for an assignment and when such task is measurable in terms of individual performance, may decide to engage individual consultants.

(2) The Chairperson shall constitute the CEC comprising the Secretary, Senior Finance & Accounts Officer/ Account Officer, and an appropriate Officer of the rank of Director as nominated by the Chairperson.

(3) The Secretariat shall prepare the terms of reference indicating among others the scope of the work, milestones to be achieved, the schedule of payments linked to achievement of each milestone, the experience and qualification required and the terms and conditions of engagement.

(4) The CEC shall, after necessary modification, if any, obtain approval of the Chairperson for the terms of reference for engagement of individual consultant.

(5) The Secretary shall call for applications through publication of notice in two newspapers and on the Commission's website giving, as far as possible, a period of at least three weeks for submission of applications.

(6) Based on the applications received, the CEC shall, on the basis of the educational qualifications and experience and performance test or interview, if any, shortlist a panel of persons, for appointment as consultant, having regard to, but not limited to, the following, namely:-

- (a) Academic background;
- (b) Experience;
- (c) Knowledge of the working environment such as language, culture, administrative system and other relevant factors:

Provided that the CEC shall, while short listing the panel shall consider the profile of atleast three candidates:

Provided further that the condition of three candidates may be relaxed with the approval of the Chairperson, if the responses from sufficient number of candidates are not received. (7) The candidate (from the panel prepared by the CEC) approved by the Chairperson shall be engaged as individual consultant.

(8) Individual Consultant shall be engaged on retainer basis in the category of "Specialist Consultant" having relevant experience of less than 10 years or in the category of "Senior Specialist Consultant" having relevant experience of more than 10 years. The consolidated fee shall be commensurate with their academic qualifications, total experience in number of years, domain expertise and knowledge required for the deliverables. The details of the fee are mentioned in Annexure-1. The maximum consolidated fee may be revised by the Commission through an Order.

(9) The maximum numbers of individual consultants that can be deployed at any point of time shall be limited to ten for assisting in various fields, as considered appropriate by the Commission:

Provided that the Commission, when it deems necessary, may extend the limit of number of individual consultants as specified above through an order.

(10) Individual consultant shall be engaged initially for a period of two years, extendable upto 3 years upon approval of the Chairperson. An annual escalation upto 10% on the fee may be given with the approval of the Chairperson based on the performance of the individual consultant during the preceding year.

(11) The age of the applicant to be appointed as individual consultant for different categories as on 1st January of the year of advertisement shall be below 62 years:

Provided that no individual consultant would be retained in the Commission after attaining the age of 65 years.

(12) Notwithstanding anything above, for Administration/ IT/ Accounts related works, Consultants may be appointed upon approval of the Chairperson depending on the requirement:

Provided that for the consultants already engaged with the Commission for Administration, IT and Accounts related works, the duration of the deployment and emoluments shall be governed as per the terms and conditions of their contract.

8. Retired Government Employees-

(1) The Commission may engage retired Government employees, retired employees of PSUs related to power sector, or retired officers of Electricity Regulatory Commissions as consultant(s) who have subject knowledge and relevant experience.

(2) Consolidated fee for engagement shall be as per the Governing order(s) of the Commission or as per the extant policy of the State Government for reappointment.

9. Professional Experts-

(1) The Commission, on being satisfied for the need, may decide to engage consultant(s) where a highly specialized consultation is required on any existing or new or evolving subject.

(2) The Chairperson shall constitute the CEC comprising the Secretary, Senior Finance & Accounts Officer/ Account Officer, and an appropriate Officer of the rank of Director as nominated by the Chairperson.

(3) The CEC shall formalize the proposal and prepare a list of professionals having the requisite expertise in the field, willingness to accept consultancy work and the fee demanded by each of them.

(4) The Commission may approve the name of the professional expert for engagement as consultant on payment of such fee and on such other terms as may be considered appropriate:

Provided that the fee so decided shall not exceed Rs. Ten lakhs for an individual professional expert for a specific assignment. The fee may be revised by the Commission through an order.

10. Conflict of Interest-

Consultants shall not be engaged for any assignment 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 assignments objectively and impartially.

11. Power to Relax-

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

12. General Power to Amend-

The Commission may, at any time and on such terms as it may deem fit, amend any of these

regulations for the purpose of meeting the objectives with which these regulations have been framed.

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13. Repeal and Saving-

(1) Save as otherwise provided in these regulations the Uttar Pradesh Electricity Regulatory Commission (Appointment of Consultants) Regulations, 2000 and its amendments shall stand repealed from the date of notification of these regulations.

(2) Notwithstanding such repeal, anything done or purported to have been done under the repealed regulations shall be deemed to have been done or purported to have been done under these regulations.

By the order of Commission,
SHAIENDRA GAUR,
Sachiv.

ANNEXURE-1

A. Maximum consolidated fee for Individual Consultants:

1. Specialist Consultant: ₹ 1,50,000/- per month (excluding tax/cess, if applicable)
2. Senior Specialist Consultant: ₹ 2,50,000/- per month (excluding tax/cess, if applicable)

B. In deserving cases, an additional fee not exceeding 10% of the fees indicated above may be granted at the time of initial engagement on the basis of the recommendations of the CEC and after approval by the Chairperson.

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