

**FORUM OF REGULATORS (FOR)**  
**Sectt: Central Electricity Regulatory Commission**  
**3rd & 4th Floor, Chanderlok Building, 36, Janpath,**  
**New Delhi – 110 001, Tel : 23753920/ Fax : 23753923**

'FOR' invites sealed quotations from reputed Consultancy firms by 29.12.2014 upto 1500 Hrs. for "Engagement of Consultant for conducting a study on Competitive Tariff vis-a-vis Cost plus Tariff- Critical Analysis". Detailed Terms of Reference (ToR) are available on the website of "FOR" i.e. [www.forumofregulators.gov.in](http://www.forumofregulators.gov.in)

**Executive Secretary(FOR)**

# **Engagement of Consultant by Forum of Regulators (FOR) for conducting a study on "Competitive Tariff vis-a-vis Cost plus Tariff- Critical Analysis"**

## **Terms of Reference (ToR)**

### **1.0 Introduction:**

- 1.1 The Forum of Regulators (FOR) has been constituted by the Government of India in terms of Section 166 (2) of the Electricity Act, 2003. The Forum consists of Chairperson of the Central Commission and the Chairpersons of the State Commissions. Chairperson of the Central Commission is the Chairperson of the Forum of Regulators and secretarial assistance to the Forum is provided by the Central Commission. The Forum is responsible for harmonization, coordination and ensuring uniformity of approach amongst the Electricity Regulatory Commissions across the country, in order to achieve greater regulatory certainty in the electricity sector.
- 1.2 FOR has been taking steps towards ensuring that the provisions in the Electricity Act 2003 (EA) and the policies i.e. National Electricity Policy (NEP) and Tariff Policy are well implemented. The Electricity Act 2003 as well as the abovementioned policies emphasise the necessity of promoting competition as well as ensuring viability of the sector.
- 1.3 As per section 61 of the Electricity Act, 2003, *"The Appropriate Regulatory Commission should determine terms and conditions for the determination of tariff, and in doing so shall be guided by the following;*
- a) *xxxxx;*
  - b) *xxxxx;*
  - c) *the factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments;*

- d) *safeguarding of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner;*
- e) *xxxxx;*
- f) *xxxxx;*
- g) *xxxxx;*
- h) *xxxxx;*
- i) *xxxxx;*

- 1.4 Section 63 of the Electricity Act, 2003 provides for adoption, by Appropriate Commission, of tariff determined through transparent process of bidding in accordance with guidelines issued by the Central government.
  
- 1.5 Clause 5.0 of the Tariff Policy states that "*Introducing competition in different segments of the electricity industry is one of the key features of the Electricity Act, 2003. Competition will lead to significant benefits to consumers through reduction in capital costs and also efficiency of operations. It will also facilitate the price to be determined competitively. The Central Government has already issued detailed guidelines for tariff based bidding process for procurement of electricity by distribution licensees for medium or long-term period vide gazette notification dated 19th January, 2005. All future requirement of power should be procured competitively by distribution licensees except in cases of expansion of existing projects or where there is a State controlled/ owned company as an identified developer and where regulators will need to resort to tariff determination based on norms provided that expansion of generating capacity by private developers for this purpose would be restricted to one time addition of not more than 50% of the existing capacity. Even for the Public Sector projects, tariff of all new generation and transmission projects should be decided on the basis of competitive bidding after a period of five years or when the Regulatory Commission is satisfied that the situation is ripe to introduce such competition"*

- 1.6 Clause 5.1 of the Tariff Policy provides that from January 2011 onwards, all future procurement of power by distribution utilities, with the exception stipulated in the said clause, should be done through tariff-based competitive bidding. A similar provision exists for procurement of transmission services also.
- 1.7 At present, tariffs of generating stations are determined by the Regulatory Commissions under Section 62 of the Electricity Act. At the same time, tariffs for generating stations are also discovered through competitive bidding process conforming to Government of India guidelines.
- 1.8 While tariffs are determined primarily on cost-plus method and reviewed annually by the Electricity Regulatory Commissions under Section 62 of the Electricity Act, 2003, tariffs adopted through bidding process under Section 63 are levellised for a fixed period of 25 years based on parameters such as capacity and energy charges and allowable escalations on escalable components, and discounting factor etc.
- 1.9 It is generally believed that tariffs determined through competitive bidding are efficient and fair as they are based on transparent and fair process of price discovery. There are, however, concerns that as bids of generators are made under inaccurate assessment of future costs, project execution and operations, tariffs determined through the competitive bidding route may be aggressive, pose risk to financial viability of projects, or undermine execution of the project. The proponents of the cost plus approach argue that the design of tariff under this approach gives flexibility of revision of tariff by keeping in view the developments in the sector during the ongoing tariff period, and as such obviates aggressive or unrealistic tariffs.
- 1.10 As parameters and price under cost plus based tariff determination differ from those of competitive bidding parameters, there is a need for a detailed critical analysis of both sets of tariff determination processes.

## **2.0 Objectives of the study**

To conduct a critical comparison of cost plus based tariffs for electricity generation vis-a-vis tariff adopted through competitive bidding route in India

## **3.0 Scope of Work:**

The consultant shall;

1. Review the generation tariffs, adopted through competitive bidding and determined based on cost plus models across the country since introduction of bidding guidelines.
2. Prepare trend analysis by tracing back the components of tariff.
3. Evolve a Matrix/ develop parameters for comparison of both the approaches of tariff determination.
4. Compare the tariffs discovered through bidding with the tariffs determined by CERC under cost plus approach.
5. Present a critical analysis based on such comparison.
6. Carry out any other related analysis as may be required by the FOR secretariat.

## **4.0 Deliverables and Duration of Assignment**

The assignment shall be completed within a period of 120 days from the date of award of consultancy. The Consultant will be required to:

1. Submit an Inception Report at the end of 30 days from the date of award of assignment; including a status paper on the models adopted across the country in the past 10 years
2. Submit an interim report on progress of the study and identified data gaps at the end of 60 days from the date of award of assignment.
3. Submit a draft report at the end of 90 days from the date of award of assignment followed by a presentation before Forum of Regulators;
4. Submit a Final Report at the end of 120 days from the date of award of assignment;

## 5.0 Payment Schedule:

1. 10% of the professional fees shall be payable as advance at the time of signing agreement/acceptance of the offer;
2. 15% of the professional fees shall be payable on submission of the inception report;
3. 30% of the professional fees shall be payable on submission of the draft report;
4. 30% of the professional fees shall be payable on submission of the final report; and
5. Balance 15% of the professional fees shall be payable on acceptance of the final report by the 'FOR'.

## 6.0 Qualification/Experience Criteria:

1. The bidder should have completed at least 2 assignments, in the past 5 years, for assistance in determination/ study of competitive tariff and cost plus tariff for Electricity Regulatory Commissions/Distribution utilities/Generating Companies
2. The bidder is expected to have complete knowledge of Electricity Act, 2003 as well as policies, Rules and Regulations and guidelines issued under the Act.

## 7.0 Application and Evaluation Criteria:

1. The format of application is at **Annexure-I** and **Annexure-II**.
2. The bidder is required to submit **two (2)** copies of bids for Technical offer (each of which will be treated as original along with soft copy of the entire technical bid (read only) in a pendrive, duly sealed in an envelope). The bidder will also submit **one copy** of financial offer, duly sealed in a separate envelope.
3. Technical evaluation will carry 70% weightage and Finance evaluation 30% weightage.
4. The bids of the eligible bidders as per 'Clause 7' will be scrutinized by Consultancy Evaluation Committee (CEC) and shortlisted bidders will be called for interaction with the CEC and their technical performance will be evaluated based on the following criteria:

<b>Technical Parameters</b>	<b>Marks</b>
The Consultants relevant experience for the assignment	30
Understanding of the issues and approach to be followed	30
The qualifications and experience of the key staff (who would be actually working on the project) proposed	40
<b>Total Technical Score</b>	<b>100</b>

5. The minimum qualifying marks in the Technical Evaluation is 70.
6. Financial Bids of only technically qualified bidders, would be opened and considered.
7. Weight for Financial Evaluation Proposal with the lowest quoted price will be given a financial score of 100 and other proposals would be given financial scores that are inversely proportional to their quotes.
8. The total score will be obtained by weighting the Technical and Financial scores and adding them
9. Only the successful bidder would be communicated the award of consultancy assignment.
10. The right to reject any or all bids rests with the FOR Secretariat without assigning any reason.
11. The 'FOR' and the Consultant both would have option to terminate the contract by giving a notice of one month or the equivalent remuneration in lieu thereof. In such cases, the Consultant shall be paid fees after taking into consideration the part of work completed prior to such foreclosure, termination or cancellation of the engagement as may be decided by the 'FOR'. The decision of the 'FOR' shall be conclusive and binding. The fees so fixed and paid shall be deemed to be final payment in such cases.
12. The consultant shall abide with the Contract as per **Annexure-III**.
13. The address for submission of the proposal and seeking clarification is given below:

Assistant Secretary (Forum of Regulators)

Central Electricity Regulatory Commission

1st Floor, Chanderlok Building, 36, Janpath, New Delhi- 110001

Ph: 91-11-23353503 Fax: 91-11-23753923

**DETAILED PROPOSAL FOR STUDY**  
**(TECHNICAL)**

**Two (2) copies** of the proposal along with project summary to be submitted to Assistant Secretary, FOR.

**I. GENERAL INFORMATION:**

01. Title of the Proposed Study :
02. Name and address of the Organization/ :  
Institution
03. Name & Designation of the Key Person :
04. Contact address of the Key Person :  
(e-mail/fax/telephone)
05. Net-worth/Turnover of the Organization/ :  
Institution
06. PAN No of the Organization/ :  
Institution



**II. TECHNICAL SPECIFICATIONS:**

- 06. i. Department(s) of the organization/Institution(s) where the study will be carried out
  - ii. Other department(s), if any, which will collaborate in this study
- 07. Brief review of the state-of-art in the field (National and International)
- 08. Detailed Approach & Methodology for undertaking the assignment
- 09. Facilities available for the proposed work in the applicant’s organization/institution
- 10. Previous experience of the proposer in this or related field
- 11. Biographical sketch of the Study Team
  - (i) Name
  - (ii) Designation
  - (iii) Date of Birth
  - (iv) Education and Experience

(a) Academic Qualifications

Degree	University	Field(s)	Year

(b) Experience

Institution	Topic of work done	Period

(v) Field of major interest

(vi) Additional information (if any)

12. Capacity to impart training/transfer of knowledge

**DETAILED PROPOSAL FOR STUDY**  
**(FINANCIAL)**

**I. GENERAL INFORMATION:**

01. Title of the Proposed Study :
02. Name and address of the Organization/ :  
Institution
03. Name & Designation of the Key Person :
04. Contact address of the Key Person :  
(e-mail/fax/telephone)
05. Net-worth/Turnover of the Organization/ :  
Institution
06. Certificate of authorization in case of Institutes/other organizations (Format enclosed at  
**Appendix-‘A’**).

**II. Fee Proposed:**

07. Amount of Fee proposed for:

Components	Basis	Amount (in Rs.)
(I) Consultant Charges		
(II) Misc./Others (if any)		
<b>Total</b>		

(The amount quoted would be inclusive of statutory levies and taxes)

(RUPEES \_\_\_\_\_)

Signature of the Principal Investigator /  
Head of the Study Team

**CERTIFICATE**

The undersigned agree to abide by the conditions of the grants and certify that available facilities for proposed work shall be extended to the investigator/study team.

Signature of Executive Authority  
Investigator/of the Organisation

Signature of the Principal  
Head of the Study Team

Name and Designation

Name and Designation

Date

Date

Signature of Co-investigator  
Name and Designation  
Date

Official stamp of  
Organization/Institution

**On 50 Rs Stamp Paper**

**AGREEMENT**

This agreement made on this day of [here give the date of the agreement] at New Delhi BETWEEN [here give the Name and address of the consultant or Professional Expert] hereinafter referred to as “the consultant/professional expert” of one part and the **Forum of Regulators, C/o. Secretariat: Central Electricity Regulatory Commission, 3rd and 4 the Floor, Chanderlok Building, 36 Janpath, New Delhi -110001** (herein after called "the FOR") of the other part.

WHEREAS

- (A) the FOR, on being satisfied that there is a need to appoint a [**Corporate consultant or Professional Expert**] for study on “**Competitive Tariff vis-a-vis Cost plus Tariff-Critical Analysis**” invited quotations vide notice [1/24/2014-Study(CT)/FOR/CERC dated 5<sup>th</sup> November 2014.]
- (B) the [consultant/Professional Expert] responded to the above notice and submitted his quotations vide his letter [here give the No and date of the quotation of the consultant]
- (C) the FOR, on scrutiny of the responses received in response to its above mentioned notice dated [here give the date of the notice inviting quotations] including the one received from the [consultant/professional Expert] has decided to engage the consultant/professional expert for the above said assignment.
- (D) the consultant/professional expert has agreed, to take up the above said assignment

NOW THIS AGREEMENT WITNESSETH AS UNDER:

That the Parties to this Agreement have agreed to terms and conditions mentioned below:

**1. Definitions:**

- (i) “Confidential information” mean any and all information communicated to the consultant by the FOR duly marked so.
- (ii) “Person” shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (iii) “Secretary” means the Secretary of the FOR.

2. **Nature of work:** The consultant/professional expert shall be engaged as [**Corporate consultant or Professional Expert**] for the study on “**Performance of Distribution Utilities**” in accordance with the Terms of Reference (**Annexure-I**) attached hereto and which shall be deemed to be a part of this agreement for all intents and purposes.

3. **Commencement and duration of assignment:** The above assignment shall commence with effect from [the date of this agreement] and shall be valid for a period of **120 Days**.

**4. Obligations of the consultant:**

- (i) The consultant shall adhere to the time-frame specified in the Terms of Reference and submit the deliverables to the Secretary.
- (ii) The consultant shall make the presentations before the FOR as required by the Secretary.
- (iii) The consultant shall ensure that the interim and final findings of the study and the contents of his interim and final reports to the FOR are not disclosed to any person unless expressly authorized by FOR.

**5. Entitlements of the Consultant:**

- (i) The consultant/professional expert shall be entitled to Rs. [Here give the amount payable and the schedule of payment and any other provision such as TDS, etc.]
- (ii) The consultant/professional expert shall be paid as per clause 5 of Terms of Reference (**Annexure-I**).
- (iii) The consultant/professional expert shall not be entitled to any other remuneration or reimbursement or perquisites or facilities.

**6. Restrictive terms:**

- (i) The consultant further affirms and confirms that the current assignment is not and shall not be, in conflict with any of its present obligations to any party with whom he/she/it has association.
- (ii) The consultant further affirms and confirms that he/she/it shall hold all Confidential Information in confidence and with the same degree of care

he/she/it uses to keep his/her/it own similar information confidential, but in no event shall it use less than a reasonable degree of care; and shall not, without the prior written consent of FOR, disclose such information to any person for any reason at any time;

- (iii) The FOR shall be entitled to, without prejudice to any other right for civil or criminal proceedings, receive from the consultant/ professional expert a compensation for the damages for violation by him/her/it of any of the terms of the agreement which shall be limited to the total fee of the assignment.

7. **Termination of contract:**

At the option of the FOR:

- (i) Without any notice: The assignment may be terminated by the FOR, any time, with immediate effect, under any of the following circumstances:
  - (a) It has come to notice that the consultant/professional expert has been convicted for an offence involving moral turpitude or unethical professional practices.
- (ii) With one month notice: The assignment may be terminated by the FOR, under any of the following circumstance, by giving one month's notice and after providing an opportunity to the consultant/professional expert to offer explanation:
  - (a) It has come to the notice of the FOR that the consultant/professional has resorted to fraud or suppression of material information or submission of false information or unethical means to secure the assignment.
  - (b) It has come to the notice of the Forum that there is a material change in the circumstances of the Consultant based on which the assignment was awarded to the consultant/professional expert.
  - (c) The consultant/professional expert has failed, without any valid justification, to adhere to the time-frame specified by the FOR in the assignment.
  - (d) The consultant has violated any of the provisions of the agreement.

At the option of either parties

- (iii) Both the parties namely, the FOR and the Consultant/professional expert have the option to terminate the assignment by giving a notice of one month or the equivalent remuneration in lieu thereof.

8. **Effect of termination:** On pre-mature termination of the assignment, the FOR shall pay the consultant/professional expert, the remuneration for the work performed by him/her/it till the date of termination of the Contract.





Provided that in case of any dispute as to what is the entitled remuneration for the work the matter shall be referred to arbitration under the provisions of this agreement.

9. **Notice** Any notice between the parties shall be in writing and posted to the other party to the last known address.

10. **Arbitration:**

(i) Any difference, dispute, claims which may arise between the parties hereto as to the construction or true intent and meaning of any of the terms and conditions herein contained or as to any payment to be made in pursuance hereof or as to any other matter arising out or as to any other matter arising out of or connected with or incidental to these presents or as to the rights, duties and obligations of any of the parties, such difference, dispute or claim shall be mutually settled amicably by arbitration through a sole arbitrator appointed by the FOR.

(ii) The arbitration shall be conducted in accordance with the Arbitration and Conciliation Act, 1996 or any statutory amendments thereof. The venue of such arbitration will be Delhi/New Delhi.

(iii) Arbitration shall be subject to English language.

11. **JURISDICTION:** In respect of any legal proceedings arising as a result of or relating to or incidental to this agreement, the courts in Delhi/New Delhi alone shall **have exclusive jurisdiction**

IN WITNESS WHEREOF, the Parties above named have executed this Agreement of the day, month and year mentioned hereinabove.

Signed by, ..... [the consultant/Professional party or on behalf of .....] in the presence of

Signed by, ..... on behalf of the FOR in the presence of