

No. 23/27/2021-R&R
Government of India
Ministry of Power

Shram Shakti Bhawan, Rafi Marg,
New Delhi, 22nd December, 2021

To

1. The Chairperson, Central Electricity Authority, R. K. Puram, New Delhi.
2. The Secretary, CERC, Chanderlok Building, Janpath, New Delhi.
3. ACS/Principal Secretaries/Secretaries (Power/Energy) of all State Governments/UTs.
4. Secretaries of all State Electricity Regulatory Commissions(SERCs)/JERCs.
5. Chairman/CMDs of all PSUs under administrative control of Ministry of Power.
6. CMDs/MDs of Discoms/Gencos of all State Governments.
7. DG, Association of Power Producers(APP), New Delhi.
8. President, FICCI, House No. 1, Tansen Marg New Delhi
9. President, CII, New Delhi
10. CMD, IEX LTD New Delhi & MD/CEO, PXIL , Mumbai
11. Member, PRAYAS Energy Group, Pune
12. CEO, PFC Consulting Ltd(PFCCL), New Delhi.

Sub: Seeking comments on draft amendments to the Guidelines for Short-Term Procurement of Power (i.e. for a period of more than one day to one year) by Distribution Licensees through Tariff based bidding process – Reg

Sir/Madam,

In compliance with section 63 of the Electricity Act, 2003, the Central Government had notified the "Guidelines for short term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process" on 30th March, 2016. Further, amendments to the said guidelines were also notified on 30-12-2016(Copy enclosed).

2. In this regard, I am directed to forward herewith the **draft Amendments to the Guidelines for short-term Procurement of Power(i.e. for a period of more than one day to one year) by Distribution Licensees through Tariff based bidding process**, with the request to provide your comments, if any, to this Ministry within 21 days from the date of this letter i.e. by 12-01-2022. The comments may also be emailed at debranjanchattopadhyay@nic.in.

3. This issues with the approval of Competent Authority.

Encl:- As above

Yours faithfully,



(Debranjana Chattopadhyay)
Deputy Secretary to the Govt. of India
Tele No. 2371 5250

Copy for information to: PS to Hon'ble Minister of Power & NRE, Sr. PPS to Secy.(P), Sr. PPS to JS(R&R, OM), Ministry of Power

Copy to: Technical Director, NIC Cell for uploading on MOP's website under "New Notices"

DRAFT

[TO BE PUBLISHED IN PART I, SECTION 1 OF THE GAZETTE OF INDIA, *EXTRAORDINARY*]

GOVERNMENT OF INDIA

MINISTRY OF POWER

RESOLUTION

New Delhi, the December, 2021

Draft Amendments to the Guidelines for short-term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process.

1.0 In compliance with section 63 of the Electricity Act, 2003, the Central Government had notified the "Revised Guidelines for short term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process" vide resolution No. 23/25/2011-R&R (Vol-III) published in the Gazette of India (Extraordinary) (Part- I, Section-1) on 30th March, 2016.

2.0 Further, an amendment to the said guidelines was notified on 30-12-2016, wherein the Central Government had inter-alia notified amendments to implement auto extension in the reverse auction process and to bring more clarity in some of the provisions, to be effective from 1st January, 2017.

3.0 The Central Government hereby notifies the following amendments in the said guidelines in order to address the issue of sale of power by Generators in the market without the consent of procurer, to be effective from notification of this amendment.

A new clause may be added after Clause 6.4 (vi) (f) of the existing guidelines:-

6.4 (vi) PPA proposed to be entered with the Selected Bidder(s) shall include necessary details on:

g. Consequences on Sale of Contracted Power to Third Party without consent of the Procurer

- In case the Seller fails to offer the contracted power as per the Agreement to the Procurer and sells this power without Procurer's consent to any other party, the Procurer shall be entitled to claim damages from the Seller for an amount equal to the higher of : (a) twice the Tariff as per the PPA; and (b) the entire sale revenue accrued from Third Parties on account of sale of the contracted power. These damages shall be in addition to Liquidated Damages as per Para 6.4 (vi) (e) of existing guidelines, for failure to supply the Instructed Capacity. Further, there will not be any fixed charge liability to the procurers, for the power which was not supplied.

 - On a complaint to this effect by the Procurer to the concerned load dispatch centre, the Seller shall be debarred from participating in power exchanges and scheduling of this power in any short term/ medium term / long term contracts from that generating station for a period of three months from the establishment of default, in the complaint. The period of debarment shall increase to six months for second default and shall be one year for each successive default.
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Sh.Ghanshyam Prasad, Joint Secretary

अनुबंध-I

अल्पावधिक प्रापण बोली प्रक्रिया एवं इसके पश्चात के कार्यकलापों की समय-सूची

| क्र.सं. | इवेंट | शून्य तिथि में व्यतीत समय |
|---------|---|--|
| 1. | आरएफपी का प्रकाशन/इवेंट को सक्रिय करना | शून्य तिथि |
| 2. | आरएफपी प्रस्तुत करना (ऑन लाइन डिजिटल हस्ताक्षरित, गैर-वित्तीय तकनीकी बोली तथा आईपीओ | 4 दिन |
| 3. | गैर-वित्तीय तकनीकी बोलियों को खोलना | 5 दिन |
| 4. | बोलीदाता(ओं) से मांगा गया स्पष्टीकरण, यदि कोई हो तो, | 6 दिन |
| 5. | कोई स्पष्टीकरण न होने के मामले में गैर-वित्तीय तकनीकी बोलियों का मूल्यांकन (यदि ई-बीजी सामान्यतः बोलीदाताओं को उपलब्ध हो तो समय 5 दिन का माना जाए तथा शेष इवेंट में अनुवर्ती समायोजन किया जाए)। (यदि स्पष्टीकरण मांगा गया हो तो प्रापक बोलीदाता(ओं) को 7 दिन तक के समय की अनुमति देना तथा शेष इवेंट में अनुवर्ती समायोजन किया जाए। | 7 दिन |
| 6. | आईपीओ खोलना (13:00 बजे तक) तथा ई-आरए शुरू करना। | 8 दिन |
| 7. | एलओए जारी करना तथा हस्ताक्षरित एलओए प्रस्तुत करना। | 9 दिन |
| 8. | पीपीए पर हस्ताक्षर करना। | 10 दिन* |
| 9. | विक्रेता/क्रेता द्वारा पहुंच अनुमोदन हेतु आवेदन प्रस्तुत करना तथा एसएलडीसी सहमति प्राप्त करना। | प्रापक द्वारा अनुसूचित सुपुर्दगी तिथि पर निर्भर करते हुए तथा खुली पहुंच विनियमों के अनुरूप शामिल किया जाना है। |
| 10. | एलसी खोलना | विद्युत आपूर्ति से पहले |

* ई-बोली पोर्टल के माध्यम से प्रतिस्पर्धात्मक बोली की प्रक्रिया अधिमानतः 10 दिनों में पूरी कर ली जाए।

MINISTRY OF POWER

RESOLUTION

New Delhi, the 30th March, 2016

Guidelines for short-term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process

No. 23/25/2011-R&R (Vol-III).—1. Preamble

- 1.1. Promotion of competition in the electricity industry in India is one of the key objectives of the Electricity Act, 2003 (the Act). Power purchase cost constitutes the largest cost element for Distribution Licensees. Moreover, Power purchase cost for short-term procurement of Power is a significant part of overall Power purchase cost for Distribution Licensees. Competitive procurement of short-term power requirement by the Distribution Licensees is expected to reduce the overall cost of procurement of power and will result in significant benefits for consumers.
- 1.2. Sections 61 & 62 of the Act provide for tariff regulation and determination of tariff of generation, transmission, wheeling and retail sale of electricity by the Appropriate Commission. Section 63 of the Act states that –

“Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the Guidelines issued by the Central Government.”

- 1.3. The Central Government vide resolution dated 16th May 2012, notified the “Guidelines for short term (i.e. for a period less than or equal to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process” (here in after referred as 'Guidelines of 2012'), under the provisions of section 63 of the Act.
- 1.4. Para 2 of the Guidelines of 2012 provided that "As and when considered appropriate (not later than 5 years from the issue of these guidelines), the Central Government would examine and introduce a system of 'Reverse Auction' through an e-platform.”
- 1.5. In view of the above, the Central Government hereby notifies the revised Guidelines for short term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process inter alia introducing system of 'Reverse Auction' through an eBidding Portal w.e.f. 1st April, 2016.
- 1.6. Notwithstanding anything done or any action taken or purported to have been done or taken under the provisions of the Guidelines of 2012, be deemed to have been done or taken under the provisions of these revised Guidelines.
- 1.7. The specific objectives of these Guidelines are as follows:
 - i) Promote competitive procurement of electricity by Distribution Licensees for their short term demand (for a period of more than one day to one year);
 - ii) Reduce the Power Purchase cost of Distribution Licensees through a process of planned procurement based on transparent guidelines;
 - iii) Provide benefit to consumers;
 - iv) Facilitate transparency and fairness in procurement processes; and
 - v) Introduce a system of e-Tendering and e-Reverse Auction.
- 1.8. These Guidelines shall be read along with the relevant provisions of the Electricity Act, 2003, Policies made thereunder and other applicable regulations issued by the Appropriate Commission. In case of any conflict, clarifications shall be issued by the Central Government.

2. Scope of the Guidelines

- 2.1. These Guidelines are being issued under the provisions of Section 63 of the Electricity Act, 2003 for procurement of power by Distribution Licensees (Procurer) for short-term i.e. for a period of more than one day to one year.

Explanation: For the purpose of these Guidelines, the term ‘Procurer(s)’ shall mean the Distribution Licensee(s) or the authorized representative (AR) of the Distribution Licensee(s) to perform all tasks for carrying out the bidding process in accordance with these Guidelines.
- 2.2. The Guidelines shall apply for procurement of short term power requirements through competitive bidding.
- 2.3. Unless explicitly specified in these Guidelines, the provisions of these Guidelines shall be binding on the Procurer(s).
- 2.4. Procurement by more than one Procurers through a combined bid process shall be permitted and in such a case the Procurers shall have the option to conduct the bid process through an AR including PFC Consulting Ltd. (PFCCL). For such combined procurement, each Procurer shall provide the necessary information required as per these Guidelines. To ensure standardization in evaluation of bids, the payment security and other commercial terms offered to the Bidders by the various Procurers shall not vary. The price offered by the Bidders shall be same for Procurers inviting the bid.
- 2.5. As and when considered appropriate, the Central Government would notify the amendment to these guidelines for procurement of power through Banking mechanism.

1. **Exception:** Power procured from Power Exchanges shall be excluded from the scope of these Guidelines.

3. Introduction of e-Tendering and e-Reverse Auction

- 3.1. The Procurer(s) shall procure power using the eBidding portal by themselves or through an AR. The link for the eBidding portal is www.mstcecommerce.com, and is also available on the website of Ministry of Power (www.powermin.nic.in) and PFC Consulting Limited (www.pfcclindia.com).
- 3.2. The Bidders and Procurers or their AR shall have to be registered with the eBidding portal to create their own user id and password. For registration, only Bidders shall have to pay one time non-refundable registration fee of Rs. 20,000/- plus applicable taxes.
- 3.3. The Procurer(s) or their AR can raise indents on the eBidding portal and create events. All the Bidders would be able to participate in the eBidding events on making payment of the requisite fees of ₹ 500 per MW for the maximum capacity, a bidder is willing to bid, to PFCCL. The requisite fee plus applicable taxes shall be deposited through the portal by e-Payment Gateway provided by MSTC Ltd. After the completion of the bidding process, only successful Bidder(s) will have to pay these charges for the quantum allocated to each bidder. The balance amount will be refunded by PFCCL within seven (7) working days without any interest. The fee deposited by non Selected Bidder(s) will also be refunded by PFCCL within seven (7) working days of completion of the event without any interest.
- 3.4. All the users of the eBidding portal shall require valid digital signatures to have access to the portal.
- 3.5. An event involves one or more bids depending upon single or multiple requisition of power on round the clock (RTC) basis or for different time slots during both eTender and eReverse auction process. Each event of the auction would require independent digital signature of the Bidder.

4. Preparation for inviting bids

- 4.1. The Procurer(s) shall procure short term power as per the plan approved by Appropriate Commission or appropriate body as may have been constituted for the purpose by the Appropriate Commission. In such case the Distribution Licensees will intimate about the initiation of the procurement process to the Appropriate Commission.
- 4.2. In case procurement of short term power exceeds the approved annual short term procurement plan, the Procurer(s) shall obtain prior approval from the Appropriate Commission or any appropriate body as may have been constituted for the purpose by the Appropriate Commission.

5. Tariff Structure

- 5.1. The Procurer based on its requirement may invite the bids on round the clock (RTC) basis or for different time slots. Procurer may also provide flexibility to the Bidder(s) to bid for a part of the tendered quantity, subject to a given minimum quantity. Bid capacity offered by the Bidder shall have to be constant for the entire contract period.
- 5.2. The Bidder shall quote the single tariff at the Delivery Point upto three (3) decimals which shall include capacity charge, energy charge, trading margin (in case of Bidder being a Trader), applicable Point of Connection (POC) charges upto Delivery Point and all taxes, duties, cess etc. imposed by Central Govt. / State Govt. / Local bodies. Tariffs shall be designated in Indian Rupees only.
- 5.3. For inter-State transmission of power, state/regional periphery of the Procurer to be taken as Delivery Point. For intra-state transmission of power, inter-connection point of seller with STU/ CTU to be taken as Delivery Point.
- 5.4. For avoidance of doubt, Intra-state open access charges, transmission charges and losses along with POC injection charges and loss up to the POC interface are on Seller's account and POC drawl charges and losses along with intra-state open access, transmission charges and losses are on Procurer's account.

- 5.5. The tariff should be constant and there shall be no escalation during the contractual period. If Bids are invited for different time slots then tariff may be different for each time slot.
- 5.6. If the power is being supplied through alternate source, additional charges and losses if any, due to cancellation of existing corridor and booking of new corridor etc., shall be to the account of Bidders.

6. Bidding Process

- 6.1. For procurement of power under these Guidelines, a Request for Proposal (RfP) shall be invited by the Procurer or its AR, which shall be prepared in line with these Guidelines.
- 6.2. The Procurer shall publish a RfP notice in at least two national newspapers and upload the same on its website to accord it wide publicity. The bidding shall necessarily be by way of competitive bidding.
- 6.3. Procurer shall provide only written interpretation of the tender document to any Bidder/participant and the same shall be made available to all other Bidders. All parties shall rely solely on the written communication. In addition, the same shall be uploaded in the eBidding portal.

6.4. Standard documentation to be provided by the Procurer in the RfP shall include,

- i) Definition of Procurer(s), requirements including Quantum, minimum quantity, time slot, duration for supply of power and delivery point, Financial Bid i.e. Initial Price Offer (IPO) to include required quantity, minimum quantity, bid quantity, source of supply, Tariff and Bidder's acceptable quantity.
- ii) the procedures and criteria to be used to evaluate bids and select the Bidder for award of contract.
- iii) Earnest Money Deposit (EMD)/ Bank Guarantee (BG)
 - a. The Bidders are required to submit EMD for the maximum capacity which they wish to offer (in single bid or sum total of multiple bids) @ Rs. 30,000/- per MW per month on RTC (30 days, 24 hours) basis and same shall be reduced on pro-rata basis in case bids are invited on hourly basis, in the form of Bank Guarantee / eBank Guarantee issued by any Nationalized/Scheduled Bank or Electronically Transfer through payment gateway provided by MSTC Ltd. in the portal.

For Example: For a requirement of 1 MW for 15 days for 4 hours, the EMD shall be Rs. 30,000 x (15 days / 30 days) x (4 hrs / 24 hrs) = Rs. 2,500/-
 - b. The EMD shall be forfeited:
 - If Bidder withdraws bid during Bid Validity Period except as provided in these guidelines.
 - For non-submission of Contract Performance Guarantee by Successful Bidder(s).
 - c. The EMD shall be refunded to the unsuccessful Bidders within 10 days of expiry of Bid validity period.
 - d. The EMD of the Successful Bidder(s) shall be refunded after furnishing the Contract Performance Guarantee (CPG).
- iv) Contract Performance Guarantee (CPG)
 - a. The Successful Bidder(s) may be required to furnish CPG within 7 days from the date of selection of Successful Bidder(s) for an amount calculated at **Rs. 2 lac** per MW per month (30 days, 24 hours) of contract period or part thereof. The CPG for the procurement of power on hourly basis shall be calculated on pro-rata basis as per the example given above for calculating EMD.
 - b. The CPG shall be in the form of BG issued by any Nationalized/Scheduled Bank and valid for the period of Contract with a claim period of 1 month after the expiry of contract period.
 - c. In the event, the CPG is not furnished within the stipulated date, the EMD submitted against the Notification shall be forfeited.
 - d. The CPG provided by the Successful Bidder(s) shall be forfeited for non-performing the

contractual obligations. The CPG should be released within 30 days after completion of Contract Period.

- v) Validity period of offer of Bidder shall be till the time of signing of Power Purchase Agreement (PPA).
- vi) PPA proposed to be entered with the Selected Bidder(s) shall include necessary details on:
- a. Risk allocation between parties;
 - b. Force Majeure Events shall mean the occurrence of any of the following events:-
 - Any restriction imposed by RLDC/SLDC in scheduling of power due to breakdown of Transmission/Grid constraint shall be treated as Force Majeure without any liability on either side.
 - Any of the events or circumstances, or combination of events and circumstances such as act of God, exceptionally adverse weather conditions, lightning, flood, cyclone, earthquake, volcanic eruption, fire or landslide or acts of terrorism causing disruption of the system.
 - The contracted power will be treated as deemed reduced for the period of transmission constraint. The non/part availability of transmission corridor should be certified by the concerned RLDC/SLDC.
 - The procurer would return the CPG in case of non availability of transmission corridor during the contract period.
 - c. Change in Law – Change in Law shall include
 - Any change in transmission charges and open access charges
 - Any change in taxes (excluding income tax), duties, cess or introduction of any tax, duty, cess made applicable for supply of power by the Seller
 - d. Billing cycle – Bidders may raise bills on weekly basis or at the end of the contract period for the energy scheduled
 - e. Payment of Liquidated Damages for failure to supply the Instructed Capacity:
 - Both the parties would ensure that actual scheduling does not deviate by more than 15% of the contracted power as per the approved open access on monthly basis.
 - In case deviation from Procurer side is more than 15% of contracted energy for which open access has been allocated on monthly basis, Procurer shall pay compensation at 20% of Tariff per kWh for the quantum of shortfall in excess of permitted deviation of 15% while continuing to pay open access charges as per the contract.
 - In case deviation from Seller side is more than 15% of contracted energy for which open access has been allocated on monthly basis, Seller shall pay compensation to Procurer at 20% of Tariff per kWh for the quantum of shortfall in excess of permitted deviation of 15% in the energy supplied and pay for the open access charges to the extent not availed by the Procurer.
 - f. Payment term/Payment security to be made available by the Procurer
 - The Procurer(s) may be required to provide revolving Letter of Credit (LC) equivalent to 100% of the weekly energy corresponding to Contracted Capacity at the tariff indicated in PPA. LC shall be opened prior to commencement of supply of power.
- 6.5. The RfP shall provide the maximum period within which the Selected Bidder(s) must commence supplies after the PPA becomes effective, subject to the obligations of the Procurer being met.

7. Bid submission and evaluation

- 7.1. To ensure competitiveness, the minimum number of Bidders should be at least two for each requisition. If the number of Bidders responding to the RfP is less than two, and Procurer still wants to continue with the selection process, the selection of that single Bidder may be done with the consent of the Appropriate Commission.
- 7.2 The Procurer shall constitute a Standing Committee for evaluation of the Bids.
- 7.3 The process of e-Bidding shall be conducted online, in accordance with the provisions laid herein. Each eBidding event shall comprise of two parts i.e. e-Tender and e-Reverse Auction. An event may have multiple requisitions (i.e. independent requirements of power at different time or places). To participate in the event each Bidder will have to specify the source(s) of power for that particular bid. Each bid will have only one price per requisition accompanied by total quantum of power, the Bidder intends to supply and minimum threshold quantum acceptable to the Bidder. However, the Bidder shall have the option to choose the requisition of an event in which it intends to participate. Each of the bid will have to be signed by the Digital Signature of the Bidder.
- 7.4 The Bidder shall use one Digital Signature to submit bid through one login and for each login the Bidder may submit only one price bid from one source. However, against each requisition the bidder have the option to bid multiple bids from separate logins either from same or different sources.

For example:

An event may have one or more requisitions:

| S.No. | Quantum (MW) | Time Period | Minimum Quantum (MW) |
|-------|--------------|---|----------------------|
| 1. | 3. 100 | RTC basis 18/02/2016 to 18/03/2016 | 10 |
| 2. | 5. 250 | 0600 hrs to 1800 hrs 18/03/2016 to 18/04/2016 | 14 |

Now the Bidder may bid as follows:

| S.No. | Quantum (MW) | Time Period | Source/ Name of the Project, Address | Price Bid (Rs./kWh) | Total Quantum to be supplied (MW) | Minimum Threshold Quantity acceptable (MW) |
|-------|--------------|---|--------------------------------------|---------------------|-----------------------------------|--|
| 1. | 100 | RTC basis 18/02/2016 to 18/03/2016 | Single or multiple source | P1 | Q1 | M1 |
| | | | | P1 to P5 | Q1 to Q5 | M1 to M5 |
| 2. | 250 | 0600 hrs to 1800 hrs 18/03/2016 to 18/04/2016 | Single or multiple source | P1 | Q1 | M1 |
| | | | | P1 to P5 | Q1-to Q5 | M1 to M5 |

- 7.5 The process of bidding shall be conducted electronically. For this purpose, provisions like registration, log in, downloading and uploading etc. in the eBidding portal shall be specified in the Bid document. An event involves both eTender and eReverse auction process. Each event of the auction would require independent Digital Signature of the Bidder. An event may have requirement of power at different time and period.

- 7.6 Bidders shall be required to submit separate non financial technical Bid and Financial Bids i.e. Initial Price Offer (IPO) through eBidding portal. The Bidder will have the option to indicate their minimum threshold quantity and the same would be considered for allocation of power to the Bidder(s). The non financial Bids shall contain the acceptance of general terms and conditions without any deviation and information about the sources from which the Bidder shall supply the power. Bidders shall also be required to furnish necessary EMD/Bank Guarantee along with the Bids. The Bidders can revise their IPOs before date and time of submission of RfP. The Procurer or its AR can seek clarifications/documents required in connection with technical bid. After acceptance of the non financial technical Bids, the Financial Bids shall be opened as per the procedures specified in the Bid document
- 7.7 The IPO shall be strictly as per the format prescribed in the RfP and shall be unconditional. The conditional price bid shall be summarily rejected.
- 7.8 In the event, if two or more Bidders quote the same amount of Tariff during IPO and e-Reverse Auction stage, the time of submission of bid will be the deciding factor for their ranking.
- 7.9 The elimination of the Bidders shall be done by the following method:
- i) After the opening of Initial Price Offers, the system will rank the Bidders according to their price bids. The Bidder with the highest price bid in IPO stage will be called the H1 Bidder. The system will then analyze all the quantities offered by the Bidders in the IPO stage. If the total quoted quantity is greater than twice the Requisitioned Quantity, the Highest Bidder(H1) will be eliminated provided that the total quoted quantity after elimination is not less than or equal to twice the Requisitioned Quantity.
 - ii) The Elimination process will be done for each of the requisition separately. One event may have more than one requisition as explained earlier in Para 7.4
- 7.10 The shortlisted Bidder after elimination will be intimated individually by system generated emails only. The Reverse auction should start within 120 minutes of opening of Initial Price Offers and shall continue for a period of next 120 minutes without any extension (automatic or otherwise). During the Reverse Auction the Bidders will have the option of reducing the tariff quoted by them in decrements of one paise or multiples thereof and to increase the quantum quoted by them by 1 MW or multiples thereof. During the Reverse Auction the prevailing Lowest Tariff would be visible to all the Bidders.
- 7.11 The Bidders will have the option to increase the quantum of power upto corresponding to the value of EMD submitted along with IPO, but decrease the Tariff during the e-Reverse Auction process.
- 7.12 The Bidder after the e-RA process will be ranked in accordance with the tariff offered in ascending order. The list would also include the name, quantum offered and tariff quoted by those qualified Bidder(s) who have not changed the quantum of power and tariff from IPO stage to e-RA stage. The Bidder(s), in order of their rankings, offering the quantum of power upto the requisitioned capacity would be the Successful Bidder(s). The Procurer shall procure power from the Successful Bidders in the order of their rankings decided on the basis of tariff quoted by them until the entire Requisitioned Capacity is met.
- 7.13 The Procurers shall have the right to issue Letter of Award (LoA) to the Successful Bidder(s) [Selected Bidder(s)] in the same order to fulfil its requirement, which can be lower than the Requisitioned Capacity but not less than the quantum of Lowest Bidder. In the event Procurer rejects or annuls all the Bids, it may go for fresh Bids hereunder. In case the Procurer fails to issue the LoA within a period of 15 days from the close of e-Reverse Auction, the Successful Bidder(s) shall have the option to exit without forfeiting the EMD.
- 7.14 In case the Selected Bidder(s) is allocated a quantity of power less than the minimum threshold quantum mentioned by it, it shall have the option to exit without forfeiting the EMD.
- 7.15 In case the LOA is issued but Selected Bidder(s) is/are not in a position to fulfil the requirement, being selected in another bidding process the EMD/CPG shall be forfeited as the case may be.
- 7.16 After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by the Procurer to the Selected Bidder(s) and the Selected Bidder(s) shall, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the

Selected Bidder(s) is not received by the stipulated date, the Procurer may, unless it consents for extension of time for submission thereof, forfeit the EMD of such Bidder as Damages on account of failure of the Selected Bidder(s) to acknowledge the LOA.

- 7.17 After acknowledgement of the LOA by the Selected Bidder(s), the Procurer shall cause the Selected Bidder(s) to execute the PPA within the prescribed period in the Bid document i.e. within 15 days from the close of the e-Reverse Auction. The Selected Bidder(s) shall not be entitled to seek any deviation, modification or amendment in the PPA. The Procurer would appropriate the EMD of such Bidder as Damages on account of failure of the Selected Bidder(s) to execute the PPA. In case the Procurer fails to sign the PPA within the period prescribed above, the Selected Bidder(s) shall have the option to exit without forfeiting the EMD/CPG as the case may be.
- 7.18 The Procurer, in its own discretion, has the right to reject all Bids if the Quoted Tariffs are not aligned to the prevailing market prices.

8. Deviation from process defined in the Guidelines

- 8.1. Generally, no deviation shall be allowed from these Guidelines. However, if it is essential to have the deviation from these Guidelines, the same could be done with the prior approval of the Appropriate Commission.
- 8.2. In such event, the Procurer or its AR would incorporate the deviations affecting the technical bid, financial bid and bidding process as per these Guidelines in the eBidding portal by sending the same by email to MSTC Ltd. The eBidding portal would have such flexibility in accommodating the deviations.

9. Arbitration

- 9.1. Where any dispute arises claiming any change in or regarding determination of the tariff or any tariff related matters, or which partly or wholly could result in change in tariff, such dispute shall be adjudicated by the Appropriate Commission.
- 9.2. All other disputes shall be resolved by arbitration under the Indian Arbitration and Conciliation Act, 1996.

10. Time Table for Bid Process

- 10.1 The period for completion of bid process, shall be as per Annexure-I.

11. Contract award and conclusion

- 11.1. The PPA shall be signed with the Selected Bidder(s) consequent to the selection process.
- 11.2. After the conclusion of bid process, the Standing Committee constituted for evaluation of RfP bids shall provide appropriate certification on conformity of the bid process evaluation according to the provisions of the RfP document. The Procurer shall provide a certificate on the conformity of the bid process to these Guidelines to the Appropriate Commission.
- 11.3. For the purpose of transparency, the Procurer shall make the bids public by indicating the tariff quoted by all the Bidders, after signing of the PPA or PPA becoming effective, whichever is later. While doing so, only the name of the Successful Bidder(s) shall be made public and tariffs quoted by other Bidders shall be made public anonymously.
- 11.4. If the quantum of power procured and tariff determined are within the blanket approval granted by the Appropriate Commission in Annual Revenue Requirement (ARR) of the respective year, then the same will be considered to have been adopted by the Appropriate Commission.

In all other cases, the Procurer(s) shall submit a petition to the Appropriate Commission for adoption of tariff within 2 days from the date of signing of PPA. Appropriate Commission should communicate the decision within 7 days from the date of submission of petition.

JYOTI ARORA, Jt. Secy.

Annexure-I**Time table for short term Procurement bid process and activities afterwards**

| S. No. | Event | Elapsed time from Zero date |
|--------|--|---|
| 1. | Publication of RfP/Activation of Event | Zero Date |
| 2. | Submission of RfP (on line digitally signed non financial technical Bid and IPOs) | 4 days |
| 3. | Opening of non financial technical Bids | 5 days |
| 4. | Clarification, if any, sought from Bidder(s) | 6 days |
| 5. | In case of no clarification, evaluation of non financial technical Bids (if e-BG is generally available to the Bidders, then the time may be taken as 5 days and subsequent adjustment be made in the remaining events). (In case of clarification sought, the Procurer may allow upto 7 days to the Bidder(s) and subsequent adjustment be made in the remaining events). | 7 days |
| 6. | Opening of IPOs (upto 1300 hrs) and start of e-RA | 8 days |
| 7. | Issuance of LOA and submission of signed LOA. | 9 days |
| 8. | Signing of PPA | 10 days* |
| 9. | Submission of Application for Open Access approval and Obtaining SLDC consent by the seller / purchaser | To be inserted by Procurer depending on schedule delivery date and in line with the Open Access Regulations |
| 10. | Opening of the LC | Prior to supply of Power |

* This process of competitive bidding through eBidding portal should preferably be completed within 10 days.

MINISTRY OF POWER**RESOLUTION**

New Delhi, the 30th December, 2016

Amendment to the Guidelines for short-term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process.**No. 23/25/2011-R&R (Vol-III) 1.0 .—INTRODUCTION**

1.1 In compliance with section 63 of the Electricity Act, 2003, the Central Government had notified the "revised Guidelines for short term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process" vide resolution No. 23/25/2011-R&R(Vol-III) published in the Gazette of India (Extraordinary) (Part- I, Section-1) on 30th March, 2016.

2.0 The Central Government hereby notifies the following amendments in the said guidelines inter-alia to implement auto extension in the reverse auction process and to bring more clarity in some of the provisions, to be effective from 1st January, 2017:

2.1 The Para at point No. 3.3: "The Procurer(s) or their AR can raise indents on the e-Bidding portal and create events. All the Bidders would be able to participate in the e-Bidding events on making payment of the requisite fees of ₹500 per MW for the maximum capacity, a bidder is willing to bid, to PFCCL. The requisite fee plus applicable taxes shall be deposited through the portal by e-Payment Gateway provided by MSTC Ltd. After the completion of the bidding process, only successful Bidder(s) will have to pay these charges for the quantum allocated to each bidder. The balance amount will be refunded by PFCCL within seven (7) working days without any interest. The fee deposited by non Selected Bidder(s) will also be refunded by PFCCL within seven (7) working days of completion of the event without any interest."

May be read as under:

"The Procurer(s) or their AR can raise indents on the e-Bidding portal and create events. All the Bidders would be able to participate in the e-Bidding events on making payment of the requisite fees of Rupees 500 per MW per requisition for the total capacity sought by the Utility for that particular requisition for which the bidder is willing to bid, to PFCCL. The requisite fee plus applicable taxes shall be deposited through the portal by e-Payment Gateway provided by MSTC Ltd. After the completion of the bidding process, only successful Bidder(s) will have to pay these charges for the quantum allocated to each bidder. The balance amount will be refunded by PFCCL within seven (7) working days without any interest. The fee deposited by non Selected Bidder(s) will also be refunded by PFCCL within seven (7) working days of completion of the event without any interest."

2.2 The Para at point No. 7.10: "The shortlisted Bidder after elimination will be intimated individually by system generated emails only. The Reverse auction should start within 120 minutes of opening of Initial Price Offers and shall continue for a period of next 120 minutes without any extension (automatic or otherwise). During the Reverse Auction the Bidders will have the option of reducing the tariff quoted by them in decrements of one paise or multiples thereof and to increase the quantum quoted by them by 1 MW or multiples thereof. During the Reverse Auction the prevailing Lowest Tariff would be visible to all the Bidders."

May be read as under:

"The shortlisted Bidder after elimination will be intimated individually by system generated emails only. The Reverse auction should start within 120 minutes of opening of Initial Price Offers and shall continue for a period of next 120 minutes. During the Reverse Auction the Bidders will have the option of reducing the tariff quoted by them in decrements of one paise or multiples thereof and to increase the quantum quoted by them by 1 MW or multiples thereof. During the Reverse Auction the prevailing Lowest Tariff would be visible to all the Bidders."

Provided that during the last 10 (ten) minutes before the scheduled close time of e-Reverse auction, if a price bid is received which is lower than the lowest prevailing price bid recorded in the system during e-Reverse auction, the close time of e-Reverse auction will be automatically extended by 10 (ten) minutes from the time of the last price bid received. This process of auto extension will continue till there is a period of 10 (ten) minutes during which no price bid is received which is lower than the prevailing lowest price bid ".

JYOTI ARORA, Jt. Secy.