

ARUNACHAL PRADESH STATE ELECTRICITY REGULATORY COMMISSION

APPOINTMENT OF CONSULTANTS REGULATIONS-2017

No.APSPERC/Notification/...../..... :In exercise of powers conferred on it by Section 91 Sub-Clause 4 and Section 181 of the Electricity Act, 2003 (36 of 2003), and all other powers enabling it in that behalf, the Arunachal Pradesh State Electricity Regulatory Commission, after previous publication, hereby makes the following regulation, namely :

1. Short title and commencement:

- (1) These regulations may be called the Arunachal Pradesh State Electricity Regulatory Commission (Appointment of Consultants) Regulation, 2017.
- (2) These regulations shall come into force from the date of their publication in the Official Gazette of Arunachal Pradesh.

2. Definitions :

- (1) In these regulations unless the context otherwise requires :
 - (a) "Act" means the Electricity Act, 2003 (36 of 2003);
 - (b) "Commission" means the Arunachal Pradesh State Electricity Regulatory Commission;
 - (c) "Consultant" includes any individual – not in the employment of the Commission, firm, body or association of persons, who or which possesses or has access to any specialized knowledge, experience or skill;
 - (d) "Secretary" means the Secretary of the Commission.
 - (e) "CEC" means Consultancy Evaluation Committee.
- (2) Words or expressions occurring in these regulations and not defined herein but defined in the Act or in the Arunachal Pradesh State Electricity Regulatory Commission (Conduct of Business) Regulations, 2011 shall bear the same meaning as in the Act or in the said Conduct of Business Regulations.

3. Scope of Work :

The Commission may from time to time appoint consultants for executing the professional and specialized tasks for which skills are either not available within the staff of the Commission or where the nature of job is specified and time-bound or where the Commission considers appointment of consultant to be conducive or more efficacious and efficient method of carrying out and completing the task in terms of equality, cost, time or on any other consideration.

- 1) The eligibility requirements and other terms & conditions of engagement of consultants will be drawn up in each case. The terms & conditions of engagement shall be agreed to between the consultant and the Commission prior to award of consultancy.
- 2) The terms of engagement would specify the exact nature of the tasks to be undertaken by the consultant, the time allowed for completion of each task and the specific outputs that are to be provided by the consultant in relation to each work.

4. Period of Appointment :

The consultant shall be appointed for the minimum period and shall be as specified in the Regulations to follow here in after for each type of Consultant.

5. Categorisation of Consultants :**1. The Consultants shall be categorized as :****(a) Institutional/Corporate consultants:**

Institutional consultant may be appointed where 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.

(b) Individual consultants:

Individual consultant may be appointed for assignments for which teams of personnel are not required, where the experience and qualifications of the individual are of paramount consideration and the Commission is of the opinion that the consultancy services can be more efficiently performed by an individual, having regard to the qualifications and experience considered relevant for the assignment.

Category	Minimum Experience in the Area of Appointment/Requirement
Expert Consultant	20 years
Consultant	15 years

(c) Staff Consultants:

Staff Consultants may be appointed for assisting the Commission in discharging its day to day routine and specific professional & technical functions, if the Commission is satisfied that there has been increase in the quantum of work of the Commission for the existing staff to handle it or the regular posts could not be filled due to various constraints.

(d) Professional Adviser:

The Commission on being satisfied on the need for professional expertise of specialized nature may decide to engage a professional expert for advice only on the specific issue of urgent and specialized nature.

2. For Individual Consultants and Staff Consultants the Commission shall prescribe minimum educational qualifications on case to case basis depending on the nature of work and the relevant professional qualification and experience related to subject area of the consultancy.

3. The Commission may in appropriate cases, for reasons to be recorded in writing, relax/modify the education and professional qualifications keeping in view the overall expertise, knowledge base and experience of the person being considered for Individual and Staff Consultants.

4. The Commission may in **exceptional cases**, for reasons to be recorded in writing, relax the educational qualifications and/or experience of the person in case no suitable candidate as per the prescribed qualification and experience applies for the job being considered for engagement as staff Consultant even after advertising the job two times. In such a case the fee to be paid to the consultant shall be reduced suitably. However, this relaxation shall be availed as the last resort.

5. The Headquarters of the Individual Consultants, Staff Consultants normally shall be at the Headquarters of the Commission

4. Fees and Other Charges :

a. Individual Consultants & Staff Consultants:

- i. Except where the Commission directs otherwise, the individual consultant shall be appointed generally on a consolidated fee at the rates specified in the **Schedule-I** which is inclusive of the taxes to be individually paid by them to the concerned Govt. agencies as per prevailing laws. Income tax as per prevailing laws shall however be deducted at source by the Commission.

Provided that the Commission may from time to time by an order in writing, direct revision of the rates of fee specified in the Schedule as and when required and felt suitable due to emerging situations.

- ii. No payments in addition to the consolidated fee in accordance with sub-regulation (i) shall be made. Provided that the Commission may allow, at its discretion, an additional amount not exceeding 10% of the fee payable to the consultant to cover expenditure of contingent nature.

- iii. Where the consultant has to incur expenditure on travel to and stay at a place away from the headquarters of the Commission, the Commission shall reimburse the cost of travel by an appropriate class and authorize payment of Daily Allowance which shall be notified on case to case basis separately by the Commission in addition to fee and other charges payable under these regulations for such number of days as the Commission may consider appropriate.

- iv. The fee and other charges payable to individual consultants under these regulations shall also be payable to former and retired Government servants, Advisers, PSU Officials if appointed as individual consultants.

b. Institutional/ Corporate Consultants:

In the case of an institutional/corporate consultant the Fee shall be fixed based on their financial bid which shall be subject to negotiations.

- c. **Professional Adviser:** They may be engaged as consultant on payment of such fee as may be considered appropriate after mutual discussion/negotiation between both the parties based on the nature of assignment, time period and the professional expertise sought and offered and shall be inclusive of the taxes to be individually paid by them to the concerned Govt. agencies as per prevailing laws. Income tax as per prevailing laws shall however be deducted at source by the Commission.

5. Appointment of Institutional/Corporate Consultant :

- (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, the Chairperson shall constitute the CEC comprising the Secretary as its Chairman , Internal Financial Advisor and an officer or consultant in the Commission having knowledge in the area of work for which the consultancy services are to

be obtained and, if considered necessary, an external expert, as may be nominated by the Chairperson as the members.

(2) The CEC shall prepare the terms of reference indicating the scope of the work, various deliverables, milestones and the schedule of payments linked to achievement of each milestone and obtain approval of the TOR from the Chairperson.

(3) The CEC, shall also decide the weightage to be allocated to each of the parameters/criteria given under **SCHEDULE-II** for the purpose of technical evaluation of bids, and obtain the approval of the Chairperson for the weightage proposed.

(4) After finalizing the weightages under clause (3), the Secretariat of the Commission shall invite single stage bids, containing technical and financial proposals in separate sealed envelopes, through publication of notice in at least one national newspaper 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.

(5) 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 two valid bids have been received: Provided further that the condition of two valid bids may be relaxed with the prior approval of the Chairperson in case the adequate number of bids are not received.

(6) For being eligible to open its Price Bid, the bidder must meet the minimum qualifying marks in the Technical evaluation fixed by the Commission for the case.

(7) After the technical evaluation is completed the Commission shall inform those Consultants whose proposals did not meet the minimum qualifying mark or were considered non-responsive to the terms of reference, and their financial proposals will be returned unopened after completing the selection process. The Commission shall have the right of distribution of marks on the basis of nature and requirement of the assignment. Simultaneously, those Consultants who have secured the minimum qualifying marks shall be informed about the date and time for Opening the financial proposals, giving sufficient time for the bidders to be present at the opening should they so desire.

(8) The financial proposals of the pre-qualified Consultants will be opened by the committee in the presence of bidders or their representatives whose bids are shortlisted for financial evaluation. The proposed prices shall be read aloud and recorded in minutes of the proceedings.

(9) The Secretary will cause a review of the financial proposals to be done. The cost will be converted to a single currency using uniform selling (exchange) rates. The proposals with lowest cost will be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices.

(10) Evaluation of financial and technical scores :The total score shall be obtained by the weighting the technical and financial scores and adding them and the bidder with highest total score shall be called by the Commission for further negotiations, if required. On successful negotiations, and after approval of the Chairperson the successful bidder shall be invited by the Commission to enter into a contract within the prescribed time limit. The weight for the financial score shall be as prescribed by the Commission in each case taking into account the complexity of the assignment and the relative importance of quality. However, the weight will never exceed 0.3 for the financial score in any case.

(11) The Commission may reject any or all proposals if they are found to be unresponsive or unsuitable either because they represent major deficiencies in complying with the terms of reference or they involve cost substantively higher than the original estimate.

(12) Notwithstanding anything contained in this regulation, in matters of urgent nature and involving financial commitment not likely to exceed Rupees Fifteen Lakh for the whole assignment, the Commission may avail consultancy services of a corporate consultant on the basis of single sourcing. Single source selection may also be resorted to by the Commission in appropriate cases where it represents a clear advantage because the tasks represent a natural or logical continuation of the previous work carried out by the Consultant or where only one firm is qualified or has experience for the assignment.

6.Appointment of 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 an individual, having qualification and experience and expertise considered essential for an assignment may decide to engage an individual consultant.

(2) The Commission shall call for applications through publication of notice in at least one national newspaper and on the Commission's website giving, as far as possible, a period of at least three to four weeks for submission of applications which can not be reduced less than two weeks under any circumstances. The Commission shall also indicate the likely fee and the approximate period of engagement. The exact fee and the period shall however be finalised after the completion of the selection process and as agreed upon with the selected candidate. Before publishing the notice, the Secretary of the Commission shall identify the qualification and experience requirements keeping in view the relevant requirements of the assignment and take approval of the Chairman.

(3) Individual consultants may be selected on the basis of their qualifications, experience and expertise for the assignment and the performance in the personal interview to be conducted for the purpose.

(4) For conducting the personal interview of the applicants, a committee, headed by the Chairman himself, shall be constituted by the Chairman which shall comprise of the Secretary of the Commission as Member Secretary and any other Member(s) as deemed fit shall be nominated by the Chairman.

(5) They may be selected on the basis of references or from amongst those who approach the Commission or are approached directly by the Commission. Their suitability shall be judged only on the basis of academic background, experience and expertise for the assignment and performance in the personal interview. Knowledge of local conditions, administrative system and working in government organization can also be given due weightage in appropriate cases

(6) The candidate selected by the Committee shall be engaged as individual consultant who shall have to sign the agreement with the Commission before taking up the assignment.

(7) Provided that the period of initial appointment of a consultant shall not normally exceed three years;

Provided further that period of appointment may be extended further based on performance subject to the condition that the maximum period of continuous appointment of a consultant in no case shall exceed five years;

7. Appointment of Staff Consultant:

(i) The Commission, after having decided to engage a staff Consultant, shall invite applications on tenure basis, by publishing a notice in the National Dailies and on the Commission's Website, and by giving, as far as possible a period of three weeks for inviting application by the interested persons. In case of urgency this period can be reduced but not less than two weeks. The Commission shall also have the option to select the consultants by conducting campus interviews at reputed Institutes related to Power Sector conducting courses on regulatory issues like National Power Training Institute at Faridabad and other locations and similar other institutes at its discretion.

(ii) Before publishing the notice, the Secretary of the Commission shall identify the qualification and experience requirements keeping in view the relevant provisions of the Commission's Regulations governing the recruitment against regular posts.

(iii) The staff consultant may be engaged based on qualification, field of specialisation and length of experience ranging from 3 years or more and offered a consolidated fee as described under Regulation 4(a) which can also be equivalent to basic pay plus dearness allowance and other allowances as deemed fit in respect of the post against which the staff consultant is being engaged. Annual increment in the consolidated fee shall be decided on the annual performance and output of the concerned incumbent and shall be decided on case to case basis by the Commission.

(iv) The staff consultant shall be engaged on tenure basis, initially for a period of two years extendable to another one year based on the performance of the person concerned.

Provided that Consultants showing consistent excellent performance and valuable/useful contribution to the Commission and on willingness of the Commission and the Staff consultant, he /she can be considered for absorption in the suitable regular sanctioned post in the Commission after a continuous working of at least two years as Staff consultant. They may also be required to sign a bond to be specified by the Commission.

In such case, the formula for fixation of pay in a particular pay scale and other modalities of service shall be worked out by the Secretariat of the Commission for approval by the Chairman which shall be agreeable by the incumbent concerned.

- (v) For conducting the personal interview of the applicants, a committee, headed by the Chairman himself, shall be constituted by the Chairman which shall comprise of the Secretary of the Commission and any other Member(s) as deemed fit shall be nominated by the Chairman which shall interact with the candidates and recommend names of suitable persons for engagement as staff consultants. The Secretary shall act as the Member Secretary of the selection committee.

8. Appointment of Professional Adviser:

- (i) The Chairman on being satisfied for the need may decide to engage a professional to be called by the name Adviser for advice on an issue of urgent nature.
- (ii) On the Chairman having decided to engage an Adviser, the Secretary of the Commission shall formalize the proposals for placing before the Chairman for his decision. He / She shall prepare a list of not less than two professionals having the requisite expertise in the specialized field, their willingness to accept consultancy work and the fee demanded by each of them. In case of urgency and if details of at least two professionals as mentioned above could not be prepared, the Chairman shall have the power to relax the said condition in the interest of the Commission.
- (iii) The Chairman may approve the name of the expert for engagement as Adviser on payment of such agreed/negotiated fee and on such terms as may be considered appropriate provided that the fee so decided shall not exceed Rs. 10 (Ten) lakhs including all sorts of taxes for an individual specialized assignment of work which may be spread over a period of days/months/years.

9. Conflict of Interest

Consultant shall not be hired for any assignment that would be in conflict with his prior or current obligations to other clients or that may place them in a position of not being able to carry out the assignment objectively and impartially.

10. Signing of Agreement with the Consultants

The Consultant selected for appointment shall be required to execute an agreement in the format given at the end of these regulations, with such variations and modifications considered appropriate in individual cases.

11. Saving of inherent power of the Commission

Nothing in these provisions shall bar the Commission from adopting a procedure which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of the matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient to depart from the procedure prescribed in these Regulations.

12. General Power to Amend/Relax :

The Commission may at any time and on such terms, as it may think fit, amend / relax any provision of these Regulations for the purpose of meeting the objectives with which these Regulations have been framed.

13. Power to remove difficulties :

If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, do anything, not being inconsistent with the provisions of the Act, which appears to it to be necessary or expedient for the purpose of removing the difficulties.

14. Vacancy in Office of Chairperson

In case of vacancy in the office of the Chairperson, the powers exercisable by the Chairperson under these regulations, may be exercised by the Secretary of Commission with the aim that the works of the Commission does not suffer.

SD/-

**Rakesh Kumar, Secretary
APSERC**

SCHEDULE- I**Fee for Individual Consultants & Staff Consultants**

Category	Maximum Fee per day	Travelling & Daily Allowance*
Expert Consultant	Rs. 3,000/-	To be specified separately
Consultant	Rs. 2,500/-	To be specified separately
Staff Consultants	Rs. 2,000/-	To be specified separately

***Note :** The Commission reserves the right to specify the exact amounts permissible as daily Allowance, determine the reasonable limits within which actual expenses are to be allowed, on a case-to-case basis, and assess the reasonableness of any claim submitted thereof.

SCHEDULE – II**Technical Evaluation of Institutional/ Corporate Consultants**

- (1) Technical evaluation will be done by the Committee appointed under regulation 10 (1) above taking into account the criteria given under sub-regulation (2) below.
- (2) Each criterion shall be marked on a scale of 1 to 100 and then the marks for each criterion shall be weighted to become average technical scores. Weights in the following ranges will be used by the Committee, with the approval of the Commission, to calculate the weighted average technical score for each proposal :

Criterion	Range of Weights
Consultant's relevant experience for the assignment	0.10 to 0.40
Quality of the methodology proposed	0.20 to 0.50
Qualification of the key staff proposed	0.30 to 0.60
Extent of transfer of knowledge to the staff of the Commission	0.05 to 0.35

Note : The mix of weights approved by the Commission will total to 1.

- (3) Where the assignment depends critically on the performance of the key staff, the proposal shall be evaluated on the qualifications of the individuals proposed to be appointed using the following criteria :
 - (a) General qualification : General education and training, length of experience, positions held, time with the consulting firm as staff, experience in developing countries etc.
 - (b) Adequacy for the assignment : Education, training, experience in the specific sector, field, subject and relevance to the particular assignment.
 - (c) Regional Experience : Knowledge of the administrative system, organization and culture at the local / regional level.

SCHEDULE –III

FORMAT FOR AGREEMENT WITH THE CONSULTANTS

Articles of Agreement made on this _____ day of _____ between _____ of _____ of one (first) part (Consultant and the Arunachal Pradesh State Electricity Regulatory Commission (herein after called “the Commission”) of the other (Second) part.

Whereas the Commission has engaged the party of the first part as a Consultant and the party of the first part has agreed, to provide the consultancy services to the Commission, on the terms and conditions herein after contained.

Now these presents witness and the parties hereto respectively agree as follows :

- 1) The party of the first part (Consultant) shall submit himself to the orders of the Commission and of the officers and authorities under whom he may from time to time be placed by the Commission.
- 2) The party of the first part (Consultant) shall complete the assignment as contained in Schedule – ‘A’ within a period of _____ commencing from _____
- 3) The party of the first part (Consultant) shall be paid as under
- 4) The schedule of payments shall be as under.
- 5) No TA / DA shall be admissible to the party of the first part for local journeys in connection with the consultancy assignment (may be varied depending on terms agreed for any individual assignment)
- 6) The payment of fee shall be made by the Commission after the deduction of tax at source in accordance with law for the time being in force.
- 7) Any information of confidential nature, which comes to the knowledge or into the possession of the consultant or of any its employees by virtue of the engagement subject matter of this contract shall not be disclosed by the consultant or its employees to any unauthorized person in any manner. Any breach of this clause without prejudice to any other action that may be initiated according to law, shall also subject the consultant to a liability to pay to the Commission such compensation as may be decided by the Commission keeping in view the nature, manner and motive of the information disclosed and the extent of the damage caused by such unauthorized disclosure.
- 8) The party of the first part undertakes that this assignment shall not be in the conflict with its prior or current obligation to other clients nor shall it place itself in a position of not being able to carry out the assignments objectively and impartially.

- 9) In case of any default on the part of the party of the first part in completion of the work within time schedule agreed to between the parties as herein above, the party of the second part (the Commission shall be at liberty to get the work completed from any other agency at the risk and cost of the party of the first part (Consultant).
- 10) The Commission reserves its right to foreclose, terminate or cancel the engagement of the consultant without assigning any reasons. In such cases party of the first part (Consultant) shall be paid remuneration after taking into consideration the portion of work completed prior to such foreclosure, termination or cancelation of the engagement as may be decided by the Commission and the decision of the Commission shall be conclusive and binding. The remuneration so fixed and paid shall be deemed to be the final payment in such cases.
- 11) In case of any differences or disputes between the parties arising out of this AGREEMENT, the same shall be referred for arbitration of a person nominated by the Commission. The proceedings shall be subject to the Arbitration and Conciliation Act 1996, as amended from time to time.
- 12) Consultant's personnel
- The party of the first part (Consultant) shall provide Description of personnel with names, position and qualifications.
- 13) Removal and / or replacement of the personnel
- Except as the Commission may otherwise agree, no change shall be made in the key personnel. If, for any reason, beyond the reasonable control of the Consultant, it becomes necessary any of the key personnel, the Consultant shall forthwith provide as a replacement a person of equivalent or better qualifications, which is acceptable to the Commission.
- 14) If the Commission finds that any of the personnel (1) committed serious misconduct or has been charged with having committed a criminal action or (2) have reasonable cause to be dissatisfied with the performance of any of the personnel, then the Consultant shall, at the Secretary's written request, specifying the ground therefore, forthwith provides as a replacement a person with qualification and experience acceptable to the Commission.
- The Consultant shall have no claim for additional costs arising out of or incidental to any removable and / or replacement of personnel.
- 15) Nodal Person of the party of the first part (Consultant) Mr. _____
- 16) The Secretary, Arunachal Pradesh State Electricity Regulatory Commission, shall be the Nodal Officer on behalf of the Commission.
- 17) Any other terms and conditions

18) In respect of any matter for which no provision has been made in this agreement, the provisions contained in the general instructions of the Government of Arunachal Pradesh on the subject of engagement of consultants shall apply.

IN WITNESS WHERE OF the party of the first part (Consultant) and _____ to the Commission on behalf of the Commission have hereto put their hands on the day and the year first above written.

Signed by _____ the party of the first part in the presence of _____

Signed by _____ to the Commission for and on behalf of the Commission in the presence of _____