

GUJARAT ELECTRICITY REGULATORY COMMISSION

6th Floor, GIFT ONE,
Road 5-C, Zone 5, GIFT CITY,
Gandhinagar – 382 355, Gujarat, India.
Ph.: +91-79-2360 2000 | E-mail : gerc@gercin.org | Website : www.gercin.org

No.:

Date: 12.11.2022

Subject : Engagement of Consultants to provide assistance to GERC 1) in the work of Tariff Orders for FY 2023-24 and 2) in the work of Preparation of the GERC (Multi-Year Tariff) Regulations for the 4th Control Period.

In response to queries raised by the participants on the RfP documents advertised on 14.10.2022, the following amendments to the RfP documents and clarifications are hereby issued.

RfP to provide assistance in work of Tariff Orders for FY 2023-24

a. The Agreement Clause No. 13 to the RfP is amended as follows:

13) Consultant's Personnel

The party of the first part (Consultant) shall provide Description of personnel with names, position, qualifications and experience.

b. The Srl. No. 8. Last date for submission of RfP is extended up to 1800 hrs. on or before 24/11/2022.

RfP to provide assistance in the work of Preparation of GERC (MYT) Regulations for the 4th Control Period

a. The Srl. No. 9. Last date for submission of RfP is extended up to 1800 hrs. on or before 24/11/2022.

The Commission's response to the queries of the interested bidders is given in the Annexure to this letter. The interested bidders are advised to go through the clarifications given in the said Annexure. All other terms and conditions of the tender remain unchanged.

Sd/-
(D.R.Parmar)
Director, GERC

Encl. : As above.

RfP to Provide Assistance in Issuing Tariff Orders for FY 2023-24, along with Truing up for FY 2021-22				
Sr. No	Clause Reference	Clause description	Clarification requested/suggestions by ABPS Infra	Comments of GERC (Draft)
1.	4 (K), Eligibility & Qualification Criteria	The consulting firm who has assisted / is assisting the Licensees / Companies / SLDC of the State of Gujarat in their current Tariff filings for FY 2023-24 before this Commission shall not be termed as eligible bidder.	<p>It presents a difficulty for submission of Bid, as ABPS Infra is in the process of being engaged for preparation of Petition for Deendayal Port Trust (DPT)</p> <p>The Commission will appreciate that there is absolutely no conflict of interest if ABPS Infra assists DPT in preparing its Petition and also assists the Commission in issuing the Tariff Orders for the other entities, grouped under a different Task in the RFP. This has also been the practice of the Commission in the previous years.</p> <p>ABPS Infra requests the Commission to kindly reconsider this Clause and permit the Consultant to bid for the other Tasks, as allowed in previous years. This will ensure adequate competition and also help the Commission to discover the best rates.</p>	The RfP is adequate and does not require any further modification.

RfP to Provide Assistance in Issuing Tariff Orders for FY 2023-24, along with Truing up for FY 2021-22

Sr. No	Clause Reference	Clause description	Clarification requested/suggestions by CRISIL	Comments of GERC (Draft)
1	4(f), Eligibility & Qualification Criteria	C. Financial & Accounting Expert – at least 10 years of experience, preferably in the power sector with qualification of CA / CMA	<p>"It is submitted here that most of the finance functions are being efficiently done by Experts with qualification of MBA (Finance) at various centre and state level power utilities and Regulatory Commissions. Further, based on our experience, Experts with MBA (Finance) and Engg. Degree are more suitable for such assignments.</p> <p>Accordingly, it is humbly submitted to modify the said clause to:</p> <p>"C. Financial & Accounting Expert – at least 10 years of experience, preferably in the power sector with qualification of CA / CMA / MBA (Finance)"</p> <p>The above modification shall widen the competition and benefit the assignment."</p>	These are standard clauses as decided by the competent authority and hence cannot be changed. Further, these are in line with several other RfPs floated earlier.
2	Agreement Clause	The Consultants shall also make sure continuous availability of the senior personnel at GERC office till completion of the consultancy assignment.	Based on our experience in regulatory works across the country and our earlier work with Hon'ble GERC, stationing the team at the Commission's office during the entire assignment is not required. Required Experts shall be required to travel, as and when basis to	The suggestion is accepted. Appropriate changes are made in the RfP.

RfP to Provide Assistance in Issuing Tariff Orders for FY 2023-24, along with Truing up for FY 2021-22				
Sr. No	Clause Reference	Clause description	Clarification requested/suggestions by CRISIL	Comments of GERC (Draft)
			attend works where physical attendance is required like presentations, finalization of Tariff Models etc. Kindly confirm the same. Accordingly, we request to remove this clause from the RfP.	
3		Additional Query	Hon'ble GERC has issued two RfPs viz: For formulation of MYT Regulations and for preparation of Tariff Orders for FY 2023-24. The qualification of certain experts sought in both of the assignments are similar in nature. Further, it's not specified anywhere in the two RfPs that separate teams shall be required for the two assignments. Further, we don't foresee full engagement of the experts in any of the assignments. Accordingly, we understand that one particular expert can be proposed and thereafter can work on both of the assignments. Kindly confirm	The interpretation is acceptable.
4		Additional Clause – Economic and Trade Sanctions:	"We request Hon'ble GERC to add the following clause: Economic and Trade Sanctions: As of the date of this Agreement the Client warrants that, (a) neither Client nor any of its subsidiaries, or any director or corporate officer of any of the foregoing entities, is the subject of any economic or trade sanctions or restrictive	The RfP is adequate and does not require any further modification.

RfP to Provide Assistance in Issuing Tariff Orders for FY 2023-24, along with Truing up for FY 2021-22				
Sr. No	Clause Reference	Clause description	Clarification requested/suggestions by CRISIL	Comments of GERC (Draft)
			measures issued by the United Nations, United States or European Union (“Sanctions”), (b) the Client is not 50% or more owned or controlled, directly or indirectly, individually or collectively, by one or more persons or entities that is or are the subject of Sanctions, and (c) to the best of Client’s knowledge, no entity 50% or more owned or controlled by a direct or indirect parent of the Client, is the subject of Sanctions. For purposes of clause (c) in this section, “parent” is a person or entity owning or controlling, directly or indirectly, 50% or more of the Client. For so long as this Agreement is in effect, the Client will promptly notify CRISIL if any of these circumstances change, upon occurrence of which, CRISIL shall have the right to terminate the Agreement immediately in whole or in part for reasons of the Client’s breach."	
5		Additional Clause – Anti-Bribery & Anti-Corruption	We request Hon’ble GERC to add the following clause: Anti-Bribery & Anti-Corruption: Each Party represents, warrants and undertakes that: (a) It has not and shall not offer, promise, give encourage, solicit, receive or otherwise engage in acts of bribery or	The suggestion is already in the agreement copy attached to the RfP.

RfP to Provide Assistance in Issuing Tariff Orders for FY 2023-24, along with Truing up for FY 2021-22				
Sr. No	Clause Reference	Clause description	Clarification requested/suggestions by CRISIL	Comments of GERC (Draft)
			<p>corruption in relation to this Agreement (including without limitation any facilitation payment), or to obtain or retain business or any advantage in business for any member of its group, and has and shall ensure to the fullest extent possible that its employees and agents and others under its direction or control and directly involved in providing Services under the Agreement do not do so. For the purposes of this clause it does not matter if the bribery or corruption is (i) direct or through a third party; (ii) of a public official or a private sector person; (iii) financial or in some other form; or (iv) relates to past, present, or future performance or non-performance of a function or activity whether in an official capacity or not, and it does not matter whether or not the person being bribed is to perform the function or activity to which the bribe relates, or is the person who is to benefit from the bribe. For the purposes of this clause, a “person” is any individual, partnership, Company or any other legal entity, public or private.</p>	

RfP to Provide Assistance in Issuing Tariff Orders for FY 2023-24, along with Truing up for FY 2021-22				
Sr. No	Clause Reference	Clause description	Clarification requested/suggestions by CRISIL	Comments of GERC (Draft)
			<p>(b) Each Party shall, adhere to applicable anti-bribery and corruption laws.</p> <p>(c) Each party shall, immediately upon becoming aware of them, give the other Party all details of any non-compliance with sub-clauses (a) and (b)</p> <p>(d) It is a condition of this agreement that each Party fully complies with this Clause. If it does not do so, without prejudice to any other remedy available to a party, the non-breaching party shall have the right (but not the obligation) in its absolute discretion to terminate the whole of this Agreement to which the bribery or corruption relates. For the avoidance of doubt, any breach of this Clause shall be deemed to be incapable of remedy.</p>	
6.	8. Last date of Submission of RfP	The final bids complete in all respect are required to be submitted latest by, on or before 14.11.2022, up to 1800 hours IST.	It is requested to extend the last date of bid submission by 10 working days, considering the non-working days due to festive season in this month.	The last date of submission of RfP is extended till 24.11.2022, up to 1800 hrs. IST.

RfP to Provide Assistance in Preparation of the GERC (Multi-Year Tariff) Regulations for the 4th Control Period.

Sr. No	Clause Reference	Clause description	Clarification requested/suggestions by CRISIL	Comments of GERC (Draft)
1	5. Eligibility & Qualification Criteria	C. Financial & Accounting Expert – at least 10 years of experience, preferably in the power sector with qualification of CA / CMA	<p>It is submitted here that most of the finance functions are being efficiently done by Experts with qualification of MBA (Finance) at various centre and state level power utilities and Regulatory Commissions. Further, based on our experience, Experts with MBA (Finance) and Engg. Degree are more suitable for such assignments.</p> <p>Accordingly, it is humbly submitted to modify the said clause to:</p> <p>"C. Financial & Accounting Expert – at least 10 years of experience, preferably in the power sector with qualification of CA / CMA / MBA (Finance)"</p> <p>The above modification shall widen the competition and benefit the assignment.</p>	<p>These are standard clauses as decided by the competent authority and hence cannot be changed. Further, these are in line with several other RfPs floated earlier.</p>

RfP to Provide Assistance in Preparation of the GERC (Multi-Year Tariff) Regulations for the 4th Control Period.

Sr. No	Clause Reference	Clause description	Clarification requested/suggestions by CRISIL	Comments of GERC (Draft)
2	5. Eligibility & Qualification Criteria	A. Data Analyst / Scientist – at least 10 years of experience (Preferably M.Sc./Ph.D.)	<p>"It is submitted here that the kind of work envisaged in formulation of Regulations shall require people with Engg. Degree and MBA. The knowledge of electricity sector is important for better understanding of the various factors of Tariff Regulations.</p> <p>Accordingly, it is humbly submitted to modify the said clause to:</p> <p>""A. Data Analyst / Scientist – at least 10 years of experience (Preferably M.Sc./Ph.D./ MBA)""</p> <p>The above modification shall widen the competition and benefit the assignment."</p>	The RfP is adequate and does not require any further modification.
3	5. Eligibility & Qualification Criteria	B. Legal Expert – at least 10 years of experience (preferably LLM or any higher degree)	<p>Based on our experience in regulatory works across the country, role of a company secretary is appropriate for legal matters as a lot of compliances are envisaged in such assignments. Accordingly, it is humbly requested to modify the said clause to:</p> <p>"B. Legal Expert – at least 10 years of experience (preferably LLM/ Company Secretary or any higher degree)""</p>	The RfP is adequate and does not require any further modification.

RfP to Provide Assistance in Preparation of the GERC (Multi-Year Tariff) Regulations for the 4th Control Period.

Sr. No	Clause Reference	Clause description	Clarification requested/suggestions by CRISIL	Comments of GERC (Draft)
4	7(6). Evaluation of Bids	The Commission reserves the right to reject any / all the bids (RFP) without assigning any reason. The Commission also reserves the right to place the order with more than one bidder(s) for each / all the assignments mentioned in Terms of Reference.	<p>It is submitted here that the fee to be quoted shall be a single number for the entire assignment. Placing Orders for parts of the assignment to more than one bidder shall create chaos with respect to the fee quoted.</p> <p>It is requested to please clarify the basis of division of quoted fee in the event of placing parts of the assignments to multiple bidders.</p>	In the event of placing the order with more than one bidder for each / all the assignments mentioned in ToR, the single number quoted in the financial bid by the successful bidder(s) will be considered.
5		Additional Clause – Economic and Trade Sanctions:	<p>"We request Hon'ble GERC to add the following clause:</p> <p>Economic and Trade Sanctions:</p> <p>As of the date of this Agreement the Client warrants that, (a) neither Client nor any of its subsidiaries, or any director or corporate officer of any of the foregoing entities, is the subject of any economic or trade sanctions or restrictive measures issued by the United Nations, United States or European Union ("Sanctions"), (b) the Client is not 50% or more owned or controlled, directly or indirectly, individually or collectively, by one or more persons or entities that is or are the subject of Sanctions, and (c) to the best of Client's knowledge, no entity 50% or more owned or controlled by a direct or indirect parent of the Client, is the subject of Sanctions. For purposes of clause (c) in this section,</p>	The RfP is adequate and does not require any further modification.

RfP to Provide Assistance in Preparation of the GERC (Multi-Year Tariff) Regulations for the 4th Control Period.

Sr. No	Clause Reference	Clause description	Clarification requested/suggestions by CRISIL	Comments of GERC (Draft)
			<p>“parent” is a person or entity owning or controlling, directly or indirectly, 50% or more of the Client. For so long as this Agreement is in effect, the Client will promptly notify CRISIL if any of these circumstances change, upon occurrence of which, CRISIL shall have the right to terminate the Agreement immediately in whole or in part for reasons of the Client’s breach.”</p>	
6		Additional Clause – Anti-Bribery & Anti-Corruption	<p>We request Hon’ble GERC to add the following clause: Anti-Bribery & Anti-Corruption: Each Party represents, warrants and undertakes that:</p> <p>(a) It has not and shall not offer, promise, give encourage, solicit, receive or otherwise engage in acts of bribery or corruption in relation to this Agreement (including without limitation any facilitation payment), or to obtain or retain business or any advantage in business for any member of its group, and has and shall ensure to the fullest extent possible that its employees and agents and others under its direction or control and directly involved in providing Services under the Agreement do not do</p>	The suggestion is already in the agreement copy attached to the RfP.

RfP to Provide Assistance in Preparation of the GERC (Multi-Year Tariff) Regulations for the 4th Control Period.

Sr. No	Clause Reference	Clause description	Clarification requested/suggestions by CRISIL	Comments of GERC (Draft)
			<p>so. For the purposes of this clause it does not matter if the bribery or corruption is (i) direct or through a third party; (ii) of a public official or a private sector person; (iii) financial or in some other form; or (iv) relates to past, present, or future performance or non-performance of a function or activity whether in an official capacity or not, and it does not matter whether or not the person being bribed is to perform the function or activity to which the bribe relates, or is the person who is to benefit from the bribe. For the purposes of this clause, a “person” is any individual, partnership, company or any other legal entity, public or private.</p> <p>(b) Each Party shall, adhere to applicable anti-bribery and corruption laws.</p> <p>(c) Each party shall, immediately upon becoming aware of them, give the other Party all details of any non-compliance with sub-clauses (a) and (b)</p> <p>(d) It is a condition of this agreement that each Party fully complies with this Clause. If it does not do so, without prejudice to any other remedy available to a party, the non-breaching party shall</p>	

RfP to Provide Assistance in Preparation of the GERC (Multi-Year Tariff) Regulations for the 4th Control Period.

Sr. No	Clause Reference	Clause description	Clarification requested/suggestions by CRISIL	Comments of GERC (Draft)
			have the right (but not the obligation) in its absolute discretion to terminate the whole of this Agreement to which the bribery or corruption relates. For the avoidance of doubt, any breach of this Clause shall be deemed to be incapable of remedy.	
7	9. Last date of Submission of RfP	The final bids complete in all respect are required to be submitted latest by, on or before 14.11.2022, up to 1800 hours IST.	It is requested to extend the last date of bid submission by 10 working days, considering the non-working days due to festive season in this month.	The last date of submission of RfP is extended till 24.11.2022, up to 1800 hrs. IST.