

Draft

Proposed Competitive Bidding Regime for Generation and Transmission Tariffs in Pakistan

Concept Note



NATIONAL ELECTRIC POWER REGULATORY AUTHORITY

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BACKGROUND

The Authority through National Electric Power Regulatory Authority Competitive Bidding Tariff (Approval Procedure) Regulations, 2008 vide S.R.O. 1039(I)/2008 (“2008 Regulations”) introduced a mechanism for award of tariff to generation companies through competitive bidding. The scope of these regulations was to introduce tariff determination for generation projects through an open competitive bidding process.

The 2008 Regulations provided for a basic framework for approval of tariff arrived at through the process of competitive bidding. In order to further supplement the said regulations, the Authority issued another set of regulations in 2014, vide S.R.O. 1101(1)/2014 (“2014 Regulations”) wherein the guidelines on competitive bidding and procedure for approval of competitive bidding tariff was provided. However, the 2008 regulations were not repealed. These regulations were repealed later vide S.R.O. 47(I)/2016 (the “2006 Regulations”) and the scope of competitive bidding was extended to transmission and distribution tariffs.

The Authority has from time to time issued different set of regulations on award of tariff through competitive bidding. However, the existing regulations are restrictive and not in consonance with best international practices. Moreover, they lack the central aspect of promotion of competition in the electricity industry in Pakistan, an aspect coinciding with the key objectives of the Power Generation Policy, 2015 (vide S.R.O. 275(1)/2015) of the Private Power & Infrastructure Board, Ministry of Water & Power.

This concept note proposes a new, structured regime for competitive bidding in generation and transmission tariffs, inline with the aforementioned objectives and underlying principles.

2014 REGULATIONS CONCERNS

Following are some of the deficiencies found in the 2014 Regulations amended from time to time:

- (a) The focus of the 2014 Regulations is on aspects of approval of tariff rather than cultivating a competitive bidding regime for procurement of electricity. These regulations do not regulate the process of bidding, which this concept note proposes to address.
- (b) The 2014 Regulations are silent regarding the contents of RFP, the process of bid evaluation and contents of Bid Evaluation Report, etc.
- (c) The role and duties of the Relevant Agency and Authority are not clearly specified.
- (d) The procedure for bid evaluation and necessary approvals are not covered in the 2014 regulations.
- (e) The 2014 Regulations lack cohesive structure and exhibit various drafting concerns. The meat of the regulations are misleadingly condensed into a single part titled “guidelines”.
- (f) The draft regulations lack conformity with standard norms of legislative drafting.

OBJECTIVE AND SCOPE OF REVIEW

One of the key objectives of the WAPDA Unbundling Plan of 1992 is the promotion of competition in the electricity industry in Pakistan. Section 7(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997¹ (“Act”) and Rule 17(3) (vi) of the NEPRA (Tariff Standards and Procedure) Rules, 1998² mirror this intent. Hence, the proposed

¹ 7 (3) (a) determine tariff, rates, charges and other terms and conditions for supply of electric power services by the generation, transmission and distribution companies and recommend to the Federal Government for notification;

² 17 (3) (vi) the Authority shall have a preference for competition rather than regulation and shall adopt policies and establish tariffs towards that end;

regulations are aimed at facilitating competition in this sector through a process of competitive bidding in tariff determination.

The specific objectives of this review are as follows:

- Promote competition in electricity procurement.
- Encourage private investment in generation and transmission sector.
- Facilitate transparency and fairness in the procurement processes.
- Flexibility in bidding design and methodology.
- Facilitate reduction of information asymmetries for various bidders.
- Protect consumer interests in procurement of electricity.
- Incentivize generation and transmission companies to adopt innovative financial modeling, tax planning methods and technological advancements to ensure competitive tariff & return on investment.
- Reduce regulatory barriers in favour of a self-regulatory regime.
- Facilitation of fair treatment and the non-discrimination between generation and transmission companies.

PROPOSED REFORMS

Interpretation Clauses

Majority of the interpretation clauses from the 2014 Regulations, being standard, are proposed to be retained. The definition of “Bid Evaluation” report has been inserted and the term “Levelled Tariff” has been renamed as “Benchmark Tariff” to bring clarity to the regulations. The expression “Relevant Agency” has been defined in an exhaustive manner to include any agency approved by the Authority and a Distribution Company. Further certain words such as

“communication” were described in a restrictive manner in the 2014 Regulations. Instead an inclusive definition is proposed.

Conditions for Bidding

Competitive Bidding is an allocation procedure based on a precise evaluation criterion, and a pre-defined publicly available set of rules designed to allocate or award objects or products (e.g. contracts) on the basis of a financial bid.

Bidding in the electricity sector is different from traditional bidding, since the “auctioneer” (a Relevant Agency) seeks to purchase or procure objects or products, rather than sell a product. In such bidding, the Relevant Agency or an agent of distribution companies seeks the lowest possible price to be paid for the energy to be sold by generation or transmission companies (the bidders).

Demand Forecasting

The starting point of any bidding is accrual of information and knowledge pertaining to demand for goods to be procured, i.e. the consumer demand for energy. The proposed regulations provide that as a condition precedent all bidding shall be conducted keeping in view of the national demand of energy, as forecasted by the national grid company. This allows for energy demand to be factored into the bidding process, leading to efficiency in the procurement process.

Provisions for such national analysis are absent in the 2014 Regulations, contributing to an overall uninformed environment within the electricity sector of Pakistan.

Adequacy of supply and least Cost

A common approach globally is the necessity to ensure supply adequacy (i.e. attraction and retention of generation capacity) at the least possible cost. In view of the fast-growing electricity consumption in Pakistan, ensuring an adequate volume of new generation is of paramount importance. The use of competitive bidding as a procurement mechanism contributes to supply adequacy and security, alongside providing the benefits of competitive price hedging to consumers.

Varying Bidding Design

The proposed draft provides space for innovation and development in bidding design and methodology, which is imperative for the fostering of competition in the procurement of electricity. Several different bidding designs are used around the world to allocate objects or products. Based on experiences in varying jurisdictions and markets around the world, bidding designs most commonly used to competitively attract resources to balance the supply and demand of energy are the: (i) Sealed-bid³, (ii) Descending clock (dynamic)⁴, (iii) hybrid⁵, (iv) Combinatorial (i.e. two stage, two envelope)⁶ and (v) two-sided⁷ method.

³ Sealed-bid Auctions represent a special category whereby each pre-qualified bidder submits a schedule of prices and quantities. In this type of auction, all bidders simultaneously submit sealed bids such that no bidder has knowledge of bids made by other participants. Since bidders cannot see competing bids, they cannot adjust their own bids accordingly.

⁴ The descending clock auction is a form of dynamic auction, where price is determined throughout the auction process via multi-round bids. According to this arrangement, the auctioneer starts by calling a high price and asking bidders to state the quantities they wish to sell at said price. If the quantity offered exceeds the target quantity to be procured, the auctioneer names a lower price, and again asks bidders for quantities they want to offer at the new price. This process continues until the quantity offered matches the quantity to be procured or until excess supply is negligible. The design of a descending clock auction features several aspects requiring thorough planning and communication to bidders in advance. These include, inter alia: (i) the starting price, (ii) the auction mechanism itself (structure of rounds), (iii) the activity rule, (iv) information disclosure policy, (v) the clearing rule, and (vi) information technology. The main purpose of a descending clock auction is to grant/allow for “price discovery,” i.e., to allow bidders to revise their reserve prices in light of information and bids revealed by competing bids during the auction.

The Relevant Agency may opt for any methodology for conducting bidding, which has to be specified in detail in the RFP to be approved by the Authority. It is also proposed that the Relevant Agency should have the power to reject all bids if the quoted rate is above the Benchmark Tariff approved by the Authority.

Duties of the Relevant Agency

Clarity is proposed with regards to the role of the Relevant Agency and its accountability. Duties of the Relevant Agency shall include:

- (a) Duty to comply with the relevant procurement laws and other applicable laws.
- (b) Duty to ensure that RFP is approved by the Authority
- (c) Duty to ensure that the bids indicate necessary details about plant, type, technology and other specifications.
- (d) Duty to ensure transparency during the bidding process and compliance with RFP approved by the Authority.

⁵ The hybrid auction formats combine the best characteristics of both approaches in the pursuit of efficiency i.e. sealed bid and descending clock method. The idea is to combine the most interesting characteristics from each design. The most common approach is descending clock stage followed by sealed bid auction. In the first phase (phase I— price Disclosure) encompasses a descending price clock auction. Once it is concluded, a second phase (phase II—Negotiation), with a final round of bids using a sealed bid scheme, is used for the “classified” bidders of the first phase. This auction is generally used to extract value from bidders in auctions of goods with lesser-known values. The objective of the first phase is to provide some price discovery for the players so that those bidders who can sell the product at the lowest cost are selected for the second phase. Since only a small number of bidders might be left in the auction as the price decreases, it is preferable to switch to a sealed-bid stage to minimize the chances of collusion and therefore reduce the final auction price as much as possible. The hybrid auction can be structured with sealed bid as phase I followed by descending clock phase II. This way there is no need to have an indicative tariff, since it will be determined by at the end of phase I.

⁶ The combinatorial method involves combination of two or more methodologies such as receiving technical and financial bids separately or receiving technical and financial bid in different stages.

⁷ The two sided auctions work as an exchange, where an independent third party conducts the auction and buyers and sellers submit their bids on continuous manner and once the bids are matched the trade is executed.

- (e) Duty to ensure competence and independence of the bid evaluation committee.
- (f) Duty to submit the Bid Evaluation Report along with all the record and evidences as required by the Authority.

Contents of RFP

An “RFP” or “Request for Proposal” is required to be prepared by the Relevant Agency for the purposes of inviting bids. For simplification and clarity in the process, the following base minimum requirements for formulating a RFP are proposed to be provided in the regulations:

- (a) *Details of requirements of Relevant Agency* – includes quantum of electricity proposed to be bought in MW, term of contract proposed, tariff structure for expected life of the project depending upon the proposed fuel, normative availability requirement to be met by seller, expected date of commencement of supply, point(s) where electricity is to be delivered; construction milestones to be specified by the bidders; financial requirements to be met by bidders including minimum net-worth, revenues, etc with necessary proof of the same.
- (b) *Proposed Model power/energy purchase and transmission service agreement* – that is to be entered into with the seller of electricity or any other agreement, which shall include necessary details on risk allocation between parties, technical requirements on minimum load conditions, force majeure clauses as per industry standards, lead times for scheduling of power, default conditions and cure thereof, and penalties, payment security proposed to be offered by the Relevant Agency;
- (c) *Period of validity of offer of bidder;*
- (d) *Meeting of technical, operational and safety criteria by bidder* – including the provision of the Grid Code and relevant orders of the Authority;

- (e) *Acceptable mode and manner of demonstration of financial commitments from lenders at the time of submission of the bids;*
- (f) *Bidding methodology and bid evaluation methodology – that is to be adopted by the Relevant Agency;*
- (g) *Constitution of a bid evaluating committee;*
- (h) *Time table of bidding process;*
- (i) *The methods of bidding adopted by the Relevant Agency;*
- (j) *Requirement upon all the bidders to support their respective bids with an undertaking as to correctness of the information and assumption stated therein – along with a statement as to not concealing any material information in their bids or any supporting document; and*
- (k) *Requirement upon all bidders to support their respective bids with an undertaking regarding readiness to execute the project unconditionally.*

Approval of RFP

The regulations propose a coherent procedure for approval of RFPs, in order to bring clarity and structure to the entire process. The Relevant Agency shall submit a RFP, completed in all respects, to the Registrar, who shall place the same before the Authority within 7 days of receipt thereof for admission. The Registrar may return the RFP if it is deficient or not in conformity with the proposed regulations.

The Authority may accord approval to RFP if it fulfils the requirement of the regulations and applicable laws and general standards of transparency. The Authority may grant approval with or without modification. After the approval of RFP by the Authority, notice of inviting bids

shall be published in newspapers and the relevant international and local procurement websites by the Relevant Agency. Publication in the newspaper will commence the bidding process.

The regulations provide for the bidding process to be conducted in accordance with RFPs approved by the Authority and any deviation shall be subject to the approval of the Authority, which if not granted will render the entire process void.

Bidding and Content of Bids

The regulations propose the bidding process to be in accordance with RFP approved by the Authority. Any deviation from the approved RFP will render the entire bidding process void. This allows regulatory oversight over the bidding process.

Additionally, minimum content for bids have been proposed, which include:

- (a) corporate details of the bidder, including:
- (b) bidder's response to the technical specifications of the RFP;
- (c) indicative consideration (price) proposed by the bidder;
- (d) a finance plan indicating the funding mechanisms available to the bidder that would be used to support the financing for the project, including definitive evidence of debt and equity capital available for the project;
- (e) any material issues of concern to the bidder as to the terms of the model power purchase agreement proposed or any other agreement specified in the RFP;
- (f) details of relevant experience of the bidder and of its associates in relation to the design, construction, commissioning, ownership and operation of generation plant, both in Pakistan and elsewhere;
- (g) any other information the bidder chooses to present as indicative of its qualifications to execute the RFP; and
- (h) any other information as may be required by the Relevant Agency.

Bid Evaluation Report to the Authority

The proposed regulations provide that the Relevant Agency, upon successful completion of the bidding process, shall submit to the Authority, for its approval, a Bid Evaluation Report that shall include:

- (a) brief of the process followed;
- (b) statement regarding the compliance of RFP;
- (c) details of all bidders;
- (d) details of all responsive bids including the proposed tariff and rates;
- (e) rationale for rejection of bids;
- (f) grid interconnection studies;
- (g) details of the successful bidder and bid; and
- (h) any other information as the Authority may require from time to time.

The Authority upon being satisfied that the requirements of these regulations including RFP have been complied with, shall notify the successful bidder. The Authority shall have the power to reject the recommended successful bidder in case the quoted rate is imprudent, unreasonable or there is evidence of deceptive or anti-competitive behavior, including collusion, predatory pricing and abuse of dominant position or the total number of bids received is less than three (03) and the Relevant Agency fails to demonstrate that approval does not restrict competition and that the proposed rate is reasonable. Before approval the Authority may appoint an independent auditor to review the tender process and submit a report thereof to the Authority.

Approval of Competitive Bidding Tariff

The successful bidder, as notified by the Authority, shall, within 15 days of the notification, file an application with the Registrar seeking approval of the tariff along with following documents:

- (a) Detail of technology, equipment supplier, make, model, year of manufacturing, useful life, date of achieving commercial operation, financial soundness of the company, and any other information in support;
- (b) affidavit to verify the correctness of the contents of the application, information and documents filed with the Authority;
- (c) licence or an application for the grant of a licence; and
- (d) draft power purchase agreement or any other agreement.

The application shall be accompanied by a non-refundable fee and shall be subject to the standard admission process. The Authority may, before approving the Competitive Bidding Tariff, decide to conduct a hearing if deemed necessary. The Authority shall have the power to reject the application in case any particulars furnished with the application are deficient or found to be false or materially inaccurate, provided that before declining the application, the Authority shall give an opportunity of hearing to the applicant.

The Authority will be bound to render its decision, within fifteen (15) working days of Authority's admission of the case or the date of hearing, as the case may be. The decision of the Authority in respect of an application for granting approval of the Tariff shall be intimated to the Federal Government for notification in pursuance of Section 31(4) of the Act.

Dispute Resolution

In case of any dispute between the bidders and the Relevant Agency regarding compliance with the RFP or the non-compliance of these regulations, the same shall be referred to the Authority for decision.



Repeal

The 2014 Regulations shall be repealed upon approval and publication of the proposed regulations.

DRAFT REGULATIONS

National Electric Power Regulatory Authority (NEPRA)

NOTIFICATION

Islamabad, the day of, 2016

S.R.O _____ In exercise of the powers conferred by section 47 and section 7(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (XL of 1997) read with Rule 17(3)(vi) of NEPRA Tariff (Standards and Procedure) Rules, 1998, the National Electric Power Regulatory Authority, hereby notifies the following regulations to lay down the procedure for approval of tariff arrived at through a competitive bidding process.

PART - I

Title, Commencement and Definitions

1. Title and Commencement.— (1) These regulations may be called the National Electric Power Regulatory Authority Competitive Bidding Tariff (Approval Procedure) Regulations, 2016.

(2) These regulations shall come into force at once.

(3) These regulations shall only be applicable to generation and transmission tariff.

2. Definitions.— (1) In these regulations unless there is anything repugnant in the subject or context,—

(a) "Act" means the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997);

(b) "Authority" shall bear the meaning ascribed thereto in the Act;

- (c) "Application" means an application filed for the approval of Tariff under regulation 11 of these regulations;
- (d) "Benchmark Tariff" means a tariff calculated for the life of the project at a specified discount rate as approved by the Authority for the purpose of bidding;
- (e) "Bid Evaluation Report" means report submitted by the Relevant Agency after completion of bidding process in accordance with the RFP approved by the Authority;
- (f) "Competitive Bidding" means a process of obtaining bids/offers for Tariff carried out by the Relevant Agency;
- (g) "Communication" includes any correspondence, filing, written statement, information, comment, summary, representation, or evidence filed with the Registrar;
- (h) "Information" includes Bid Evaluation Report, supporting documents, accounts, reports, records, data returns or estimates of any description;
- (i) "Relevant Agency" means a distribution company, transmission licensee or any functionary of Federal Government or Provincial Government or any agency authorized by the Federal Government, Provincial Government for carrying out Competitive Bidding in accordance with the applicable rules and regulations;
- (j) "Registrar" means the officer of the Authority appointed to perform the functions of the Registrar as laid down in these regulations;
- (k) "Request for Proposal" or "RFP" means a document approved by Authority that includes the necessary information, benchmark parameters, terms & conditions and bid evaluation criteria etc.; and
- (l) "Tariff" means tariff arrived at through Competitive Bidding.

(2) Words and expressions used but not defined in these regulations shall have the same meaning as in the Act and rules and regulations made thereunder.

PART-II

Conditions of Competitive Bidding and Duties of the Relevant Agency

3. Conditions.— (1) The Competitive Bidding shall be conducted by the Relevant Agency keeping in view the demand forecasted by national grid company.

(2) The Relevant Agency may carry out site and technology specific Competitive Bidding.

(3) The Relevant Agency may adopt any method of bidding as may be approved by the Authority, which shall be specified in the RFP.

(4) In case Relevant Agency adopts the reverse bidding methodology, a Benchmark Tariff shall be approved by the Authority;

Provided that in case of any other method of bidding, approval of Benchmark Tariff is not required.

Provided further that the Relevant Agency may or not disclose Benchmark Tariff for the purposes of Competitive Bidding subject to the approval of the Authority;

(5) Where applicable, the Relevant Agency may reject all bids if the quoted rate is equal to or higher than the Benchmark Tariff.

4. Duties of the Relevant Agency.— The Relevant Agency while carrying out Competitive Bidding shall ensure that:

- (a) the process is conducted in compliance with the relevant procurement rules and applicable laws;
- (b) before initiating the bidding process, the RFP is approved by the Authority;
- (c) the bids clearly indicate the details of the technology, and other technical specifications

- (d) bids are invited and processed transparently and in accordance with the terms laid down in the RFP approved by the Authority;
- (e) the committee constituted for evaluation of the bids has at least one member external to the Relevant Agency and its affiliates, who shall have relevant expertise in competitive bidding;

Provided that the Relevant Agency shall disclose past associations with the external member, directly or through its affiliates, that could create potential conflict of interest.

- (f) subsequent to publication of invitation of bids, no changes in the RFP will be made without prior approval of the Authority

Provided that in case of modification in the RFP, the bidders may either be allowed additional time to submit their bids or fresh bids may be invited;

- (g) in case of generation tariff, the bidder quotes the price of electricity at the generating station bus-bar (net of auxiliaries), or at the interface point with the NTDC transmission network; and
- (h) the Bid Evaluation Report along with the record complete in all respect are submitted to the Authority for approval.

Part-III

Approval of RFP

5. Requirement of RFP.– (1) The Relevant Agency must prepare a RFP in accordance with the requirements of these regulations for the purposes of inviting bids.

(2) The Relevant Agency must provide a transparent process of bidding to ensure promotion of competition.

6. Content of RFP.– Subject to regulation 3 and 4, the RFP, where applicable, shall include:

- (a) in case of generation tariff.-

- (i) quantum of electricity proposed to be purchased in MW;
 - (ii) tariff structure for expected life of the project depending upon the proposed fuel
 - (iii) a summary of the type(s) of project(s) for which bids are requested including any requirements with respect to fuel type and availability, plant size, location, anticipated operational characteristics, requirements for system interconnection; and statement of extent of willingness to undertake necessary system interconnection if so required;
 - (iv) annual availability requirement to be met by bidder; and
 - (v) expected date of commencement of supply;
- (b) in case of transmission tariff.-
- (i) voltage level;
 - (ii) quantum of energy to be transferred;
 - (iii) length of transmission line;
 - (iv) level of losses and design specifications; and
 - (v) technical specification of conductors and wires;
- (c) term of contract proposed;
- (d) proposed price mechanism and cost parameters used in tariff determination for relevant project type;;
- (e) construction milestones to be specified by the bidders;
- (f) financial requirements to be met by bidders, including minimum net-worth, revenues, etc., with necessary proof of the same;

- (g) model power purchase agreement, energy purchase agreement or transmission service agreement proposed to be entered into with the bidder or any other agreement, which shall include details on:
 - (i) risk allocation between parties;
 - (ii) technical requirements on minimum load conditions;
 - (iii) force majeure clauses as per industry standards;
 - (iv) lead times for scheduling of power;
 - (v) default conditions, cure thereof, and penalties; and
 - (vi) payment security proposed to be offered by the Relevant Agency;
- (h) period of validity of offer of bidder;
- (i) other technical, operational and safety criteria to be met by bidder, including the provisions of the Grid Code and relevant orders of the Authority;
- (j) mode and manner of financial commitments from lenders at the time of submission of the bids;
- (k) bidding methodology and bid evaluation methodology to be adopted by the Relevant Agency;
- (l) conditions and criteria for bid disqualification, if any;
- (m) the method(s) of bidding adopted by the Relevant Agency under sub-regulation (3) of regulation 3;
- (n) bid bond or other bidding security instrument which the Relevant Agency may require to be posted by bidders;
- (o) constitution of bid evaluating committee;
- (p) time table of bidding process;

- (q) requirement upon all the bidders to support their respective bids with an affidavit as to correctness of the information and assumptions stated therein along with a statement as to not concealing any material information in their bids or any supporting documents;
- (r) requirement upon all bidders to submit a statement on affidavit regarding readiness to execute the project unconditionally;
- (s) such additional information as may be applicable to the bidding process; and
- (t) any other information as may be required by the Authority.

7. Approval by Authority.— (1) The Relevant Agency shall submit to the Registrar, the RFP complete in all respects, who shall place the same before the Authority within 7 days of receipt thereof for admission;

Provided that the Registrar may return the RFP if it is deficient or not in conformity with these regulations.

(2) After admission, the Authority if satisfied that all the requirements of these regulations and other applicable laws are met, may with or without modification approve the RFP:

Provided that the Authority may, before approving the RFP, conduct a hearing if deemed necessary, which shall be in accordance with the NEPRA Tariff (Standards & Procedure) Rules, 1998.

(3) Save as provided in regulation 3, the Authority while approving the RFP shall also approve and specify the Benchmark Tariff for the purposes of Competitive Bidding.

Part-IV

Bidding and Content of Bids

8. Bidding.— (1) After approval of the RFP, notice of inviting bids shall be published under intimation to the Authority in -

- (a) five (05) newspapers having wide national circulation;
- (b) three (03) newspapers having international circulation; and
- (c) relevant international and local procurement websites:

Provided that the Relevant Agency may take such steps as are reasonable to bring the bidding process to the attention of those who may wish to submit bids.

(2) The bidding process shall be conducted by the Relevant Agency in accordance with the RFP approved by the Authority.

(3) Any deviation from the RFP approved by the Authority will render the entire bidding process void, unless prior approval of the Authority to such deviation has been obtained.

(4) The Relevant Agency may repeat the bidding process, in accordance with the approved RFP, if the number of total bids received falls below three (03).

9. Content of Bids.— Without prejudice to the generality of the foregoing, the following information shall be provided by bidders:

- (a) corporate details of the bidder, including:
 - (i) legal identity and structure;
 - (ii) ultimate beneficial ownership of the bidder;
 - (iii) where more than one party comprises the bidder (e.g. a consortium) a description of the proposed roles of each of the parties in relation to the bid
 - (iv) copies of audited annual accounts of the bidder, including consortium members for the previous four years; and
 - (v) details of any formal direct or indirect connection between the bidder and existing participants in the energy sector, including ownership or shareholding, consulting, service agreements, etc.;
- (b) bidder's response to the technical specifications of the RFP;
- (c) indicative consideration (price) proposed by the bidder;


- (d) a finance plan indicating the funding mechanisms available to the bidder that would be used to support the financing for the project, including definitive evidence of debt and equity capital available for the project;
- (e) any material issues of concern to the bidder as to the terms of the model power purchase agreement, energy purchase agreement or transmission service agreement proposed or any other agreement specified in the RFP;
- (f) details of relevant experience of the bidder and of its associates in relation to the design, construction, commissioning, ownership and operation of generation plant or transmission lines both in Pakistan and elsewhere;
- (g) details of all internal and external authorizations which the bidder may require, such as board approvals and regulatory or foreign investment approvals, and the steps which have been taken to ensure those authorizations are obtained and at what stage those authorizations will be obtained;
- (h) any other information the bidder chooses to present as indicative of its qualifications to execute the RFP; and
- (i) any other information as may be required by the Relevant Agency.

Part-V

Bid Evaluation Report

10. Submission of Bid Evaluation Report.— (1) The Relevant Agency upon successful completion of the bidding process shall submit to the Registrar the Bid Evaluation Report which shall include:

- (a) brief of the process followed;
- (b) statement regarding the compliance of RFP;
- (c) details of all bidders;
- (d) details of all responsive bids including proposed tariff and rates;

- 
- (e) rationale for rejection of bids;
 - (f) grid interconnection studies approved by the transmission company;
 - (g) details of the successful bidder and bid; and
 - (h) any other information the Authority may require from time to time.

(2) The Registrar upon being satisfied that the Bid Evaluation Report is in compliance with these regulations shall place the same before the Authority within 14 days of receipt thereof for approval:

Provided that the Registrar may return the Bid Evaluation Report if it is deficient or not in conformity with these regulations.

(3) The Authority upon being satisfied that the requirements of these regulations, the approved RFP and other applicable laws have been complied with, shall approve the Bid Evaluation Report and notify the successful bidder:

Provided that the Authority before approving the Bid Evaluation Report may appoint an independent auction auditor to submit its report on the conduct and result of the Competitive Reverse Auction.

Provided further that the Authority may reject the successful bidder if –

- (a) the quoted rate is imprudent or unreasonable;
- (b) there is evidence of deceptive or anti-competitive behavior, including collusion, predatory pricing and abuse of dominant position; or
- (c) subject to sub-regulation (4) of regulation 8, the total number of bids received is less than three (03) and the Relevant Agency fails to demonstrate that approval does not restrict competition and that the proposed rate is reasonable.

Part-VI

Approval of Tariff

11. Application for the approval of Tariff.– (1) The successful bidder, as notified by the Authority, shall, within 15 days of the notification, file an application with the Registrar seeking approval of the Tariff along with the following documents-in-support:

- (a) details of -
 - (i) technology;
 - (ii) equipment make, model, supplier, useful life and year of manufacturing;
 - (iii) date of achieving commercial operations;
 - (iv) financial soundness of the company;
 - (v) and any other information in support;
 - (b) affidavit to verify the correctness of the contents of the Application and information and documents filed with the Authority;
 - (c) licence or an application for the grant of a licence; and
 - (d) draft power purchase agreement or any other agreement.
- (2) The Application shall be filed in triplicate.

(3) The applicant shall pay a non-refundable Application fee to the Authority for the consideration and processing of the Application, calculated in accordance with the Schedule attached to these regulations.

(4) The Application shall be deemed to be filed only when all required information has been submitted by the applicant to the satisfaction of the Registrar:

Provided that the Registrar may return the Application if it is deficient or not in conformity with these regulations.

(5) The Registrar shall present the Application to the Authority within 14 days of the filing of any such application.

(6) Having satisfied that all the relevant and necessary information has been provided, the Authority may admit the Application for processing:

Provided that the Authority may seek any other information or documents which, in the opinion of the Authority, are material and necessary for arriving at an informed decision.

(7) The Authority may, before approving the Tariff, decide to conduct a hearing if deemed necessary.

(8) The Authority may reject the Application in case any particulars furnished with the application are deficient or found to be false or materially inaccurate.

Provided that before declining the application, the Authority shall give an opportunity of hearing to the applicant.

(9) Subject to sub-regulation (7), the Authority may approve Tariff within fifteen (15) working days of the Authority's admission of the case or the date of hearing, as the case may be.

(10) The decision of the Authority in respect of an Application shall be intimated to the Federal Government for notification in the official Gazette in pursuance of Section 31(4) of the Act.

Part-VII

Miscellaneous

12. Dispute Resolution.— In case of any dispute between the bidders and the Relevant Agency regarding compliance with the RFP or the non-compliance of these regulations, the same shall be referred to the Authority for decision.

13. Repeal.— The National Electric Power Regulatory Authority Competitive Bidding Tariff (Approval Procedure) Regulations, 2014 hereby stands repealed.

Schedule I
[See Regulation 11]

PART-I

[A]

**APPLICATION FOR THE APPROVAL OF COMPETITIVE BIDDING
OF GENERATION TARIFF FEE**

<u>Capacity</u>	<u>Generation Fees (Rupees)</u>
Upto 100 MW	200,000
101 to 500 MW	400,000
Above 500 MW	500,000

[B]

**APPLICATION FOR THE APPROVAL OF COMPETITIVE BIDDING OF
TRANSMISSION FEE**

<u>Category</u>	<u>Fee (Rupees)</u>
Transmission:	
Line Length upto 100 km	500,000
101-200km	1,000,000
Above 200km	2,000,000
Distribution:	
Line Length upto 100km	500,000
101-200km	1,000,000
Above 200 km	2,000,000

PART-II

INDEXATION OF FEES

1. The application fee for the approval of competitive bidding tariff payable by an applicant or the licensee, as the case may be, shall be indexed to the Consumer Price Index ("CPI") published from time to time by the Federal Bureau of Statistics.
2. The indexation shall be done on the basis of the most recent CPI prevailing on the date of payment of the application fee and the fee payable on the date of payment shall be increased or decreased, as the case may be, in accordance with the following formula:

$$F_{pd} = F_t [CPI_{pd} / CPI_{rd}]$$

Where—

F_{pd} = The actual fee payable on the date of payment.

F_t = The respective fee set out in Part I of this Schedule II.

CPI_{pd} = The most recent CPI prevalent on the last day of the month immediately preceding the month in which the application is made.

CPI_{rd} = The reference or base CPI, prevalent on the last day of the month in which the National Electric Power Regulatory Authority Competitive Bidding Tariff (Approval Procedure) Regulations, 2016, are notified in the official Gazette.

COMPARATIVE ANALYSIS OF THE PROPOSED REGULATION WITH EXISTING REGULATIONS

Bidding Regulations, 2014	Draft Competitive Bidding Regulations, 2016	
<p>S.R.O1101(I)/2014 exercise of the power conferred by Section 47 and section 7(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (XL of 1997) read with Rule 17(3)(vi) of NEPRA Tariffs (Standards and Procedure) Rules, 1998, the National Electric Power Regulatory Authority, hereby notifies the following regulations to lay down the procedure for approval of tariff arrived at through a competitive bidding.</p>	<p>S.R.O_____ In exercise of the power conferred by Section 47 and section 7(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (XL of 1997) read with Rule 17(3)(vi) of NEPRA Tariffs (Standards and Procedure) Rules, 1998, the National Electric Power Regulatory Authority, hereby notifies the following regulations to lay down the procedure for approval of tariff arrived at through a competitive bidding.</p>	
<p style="text-align: center;">PART - I</p> <p>1.Title and Commencement.--(1) These regulations may be called the National Electric Power Regulatory Authority Competitive Bidding Tariff (Approval Procedure) Regulations, 2014.</p> <p>(2) These regulations shall come into force at once.</p>	<p style="text-align: center;">PART - I</p> <p>Title, Commencement and Definitions</p> <p>1. Title and Commencement.– (1) These regulations may be called the National Electric Power Regulatory Authority Competitive Bidding Tariff (Approval Procedure) Regulations, 2015.</p> <p>(2) These regulations shall come into force at once.</p>	
<p>2. Definitions.-- In these regulations unless there is anything repugnant in the subject or context,--</p>	<p>2. Definitions.– (1) In these regulations unless there is anything repugnant in the subject or context,–</p>	
<p>(a) "Act" means the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (XL of 1997);</p>	<p>(a) "Act" means the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (XL of 1997);</p>	
<p>(b) Authority" shall bear the meaning ascribed thereto in the Act;</p>	<p>(b) "Authority" shall bear the meaning ascribed thereto in the Act;</p>	

(c) "Application" means an application filed by a person in accordance with the provisions of these regulations and where the context so admits, include the documents-in-support, and "application" shall be construed accordingly;	(c) "Application" means an application filed for the approval of Tariff under regulation 11 of these regulations;	
	(d) "Benchmark Tariff" means a tariff calculated for the life of the project at a specified discount rate as approved by the Authority for the purpose of bidding;	The terms levallized tariff is renamed as Benchmark tariff for clarity
	(e) "Bid Evaluation Report" means report submitted by the Relevant Agency after completion of bidding process in accordance with the RFP approved by the Authority.	This term has been used frequently in the regulations, therefore the same has been defined
(d) "Competitive Bidding" means a process of obtaining bids/offers for Tariff administered by the Relevant Agency;	(f) ""Competitive Bidding" means a process of obtaining bids/offers for Tariff carried out by the Relevant Agency;	
(e)"Communication" means any correspondence, filing, written statement, information, comment, summary, Representation, or evidence filed with the Registrar;	(g) "Communication" means <u>includes</u> any correspondence, filing, written statement, information, comment, summary, representation, or evidence filed with the Registrar;	Instead of restrictive definition, and inclusive definition is proposed
(f) "Information" includes Bid Evaluation Report, supporting documents, accounts, reports, records, data returns or estimates of any description;	(h) "Information" includes Bid Evaluation Report, supporting documents, accounts, reports, records, data returns or estimates of any description;	
(g) "Levellized tariff" means a tariff calculated for the life of the project at a specified discount rate as approved by the Authority for the purpose of bidding	(g) "Levellized Tariff" means a tariff ealculated for the life of the project at a specified discount rate as approved by the Authority for the purpose of	

	bidding;	
(h) "Relevant Agency" means any functionary of Federal Government or Provincial Government or any authorized agency for carrying out competitive bidding in accordance with the applicable Rules and Regulations.	(i) "Relevant Agency" means a distribution company, transmission licensee or any functionary of Federal Government or Provincial Government or any agency authorized by the Federal Government, Provincial Government for carrying out Competitive Bidding in accordance with the applicable rules and regulations;	The proposed change will provide for cushion to include any agency approved by the Government to conduct auction including a distribution companies and transmission companies
(i) "Registrar" means the officer of the Authority appointed to perform the functions of the Registrar as laid down in these regulations;	(j) "Registrar" means the officer of the Authority appointed to perform the functions of the Registrar as laid down in these regulations;	
(j) "Request for Proposal (RFP)" means a document approved by Authority that includes the necessary information, benchmark parameters, terms & conditions and bid evaluation criteria etc.;	(k) "Request for Proposal" or "RFP" means a document approved by Authority that includes the necessary information, benchmark parameters, terms & conditions and bid evaluation criteria etc.; and	
(k) "Tariff" means tariff arrived at through competitive bidding process; and	(l) "Tariff" means tariff arrived at through Competitive Bidding;	
(1) Words and expressions used but not defined in these regulations shall have the same meaning as in the Act.	(2) Words and expressions used but not defined in these regulations shall have the same meaning as in the Act.	Renumbered

<p style="text-align: center;">Part-II Guidelines</p> <p>3. Any Relevant Agency while carrying out COMPETITIVE BIDDING shall follow the following guidelines;</p> <p>i) Competitive Bidding shall be done after observing the relevant procurement Rules and applicable laws.</p> <p>ii) Before initiating the bidding process, RFP shall be got approved from Authority;</p> <p>iii) The bids should clearly indicate the details of the plant according to the type of technology (i.e. Coal/Natural Gas/Oil /Hydel/BioMass/Wind/Solar etc) to be deployed / developed / installed/setup. This may include but will not be limited to type of units, type of fuel, details of Mean site conditions (which may include Head height, Wind Speed, solar radiation etc. as the case may be), make model of the equipment to be deployed/installed, year of manufacture, gross installed capacity, auxiliary consumption, adjustments for site conditions and net capacity etc.</p> <p>iv) The bid should be site and technology specific, keeping in view the benchmark parameters established by the Authority for similar/comparable technologies;</p> <p>v) The Levelled tariff approved by the Authority for similar technologies shall be taken as benchmark and reverse bidding from benchmark levelled tariff figure shall be done. Provided that this condition may not apply to any other mode of bidding approved by NEPRA.</p> <p>vi) The bids shall be invited and processed transparently in accordance with the terms laid down in the RFP approved by the Authority;</p> <p>vii) The relevant applicable Rules and Regulations for procurement shall be complied with while inviting and processing the bids;</p> <p>viii) The bids not fulfilling any of the term of RFP and the applicable laws shall be declared non-responsive;</p>	<p style="text-align: center;">PART-II</p> <p style="text-align: center;">Conditions of Competitive Bidding and Duties of the Relevant Agency</p> <p>3. Conditions.— (1) The Competitive Bidding shall be conducted by the Relevant Agency keeping in view the demand forecasted by national grid company.</p> <p>(2) The Relevant Agency may carry out site and technology specific Competitive Bidding.</p> <p>(3) The Relevant Agency may adopt any method of bidding as may be approved by the Authority, which shall be specified in the RFP.</p> <p>(4) In case Relevant Agency adopts the reverse bidding methodology, a Benchmark Tariff shall be approved by the Authority;</p> <p>Provided that in case of any other method of bidding, approval of Benchmark Tariff is not required.</p> <p>Provided further that the Relevant Agency may or not disclose Benchmark Tariff for the purposes of Competitive Bidding subject to the approval of the Authority;</p> <p>(5) Where applicable, the Relevant Agency may reject all bids if the quoted rate is equal to or higher than</p>	<p>For the sake of clarity the conditions and duties of the Relevant Agency have been segregated. The conditions provide for the options available to the Relevant Agency to undertake competitive Bidding.</p> <p>Flexibility has been provided to the Relevant Agency to choose any mode and manner for competitive bidding subject to the prior approval of the Authority.</p> <p>Further certain duties have been proposed to be complied with the Relevant Agency for the purposes of achieving competitiveness in the bidding process</p>
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<p>ix) Subsequent to publication of invitation of bids, no changes in the RFP shall be made without prior approval of Authority;</p> <p>x) In case of modification in the RFP, the bidders may either be allowed additional time to submit their bids or fresh bids may be invited;</p> <p>xi) The Bid Evaluation Report along with the record complete in all respect shall be submitted to Authority for approval;</p> <p>xii) In the event, the successful bidder (ranked first) defaults in fulfilling his subsequent obligations, then Authority may consider the notification of subsequent bidder (ranked next);</p>	<p>the Benchmark Tariff.</p>	
	<p>4. Duties of the Relevant Agency.— The Relevant Agency while carrying out Competitive Bidding shall ensure that:</p> <p>(a) the process is conducted in compliance with the relevant procurement rules and applicable laws;</p> <p>(b) before initiating the bidding process, the RFP is approved by the Authority;</p> <p>(c) the bids clearly indicate the details of the technology, and other technical specifications</p> <p>(d) bids are invited and processed</p>	<p>Duties of the Relevant Agency have been explicitly provided for legal and regulatory clarity</p>

	<p>transparently and in accordance with the terms laid down in the RFP approved by the Authority;</p> <p>(e) the committee constituted for evaluation of the bids has at least one member external to the Relevant Agency and its affiliates, who shall have relevant expertise in competitive bidding:</p> <p style="padding-left: 40px;">Provided that the Relevant Agency shall disclose past associations with the external member, directly or through its affiliates, that could create potential conflict of interest</p> <p>(f) subsequent to publication of invitation of bids, no changes in the RFP will be made without prior approval of the Authority</p> <p style="padding-left: 40px;">Provided that in case of modification in the RFP, the bidders may either be allowed additional time to submit their bids or fresh bids may be invited;</p> <p>(g) in case of generation tariff, the bidder quotes the price of electricity at the generating station bus-bar (net of auxiliaries), or at the interface point with the NTDC transmission network; and</p> <p style="text-align: right;">the Bid Evaluation Report along</p>	
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	with the record complete in all respect are submitted to the Authority for approval.	
4. In order to satisfy it, the Authority may require the Relevant Agency to provide any further information or document-in-support thereof;	<p style="text-align: center;">Part-III Approval of RFP</p> <p>5. Requirement of RFP.- (1) The Relevant Agency must prepare a RFP in accordance with the requirements of these regulations for the purposes of inviting bids.</p> <p>(2) The Relevant Agency must provide a transparent process of bidding to ensure promotion of competition.</p> <p>6. Content of RFP.- Subject to regulation 3 and 4, the RFP, where applicable, shall include:</p> <p>(a) in case of generation tariff.-</p> <p>(i) quantum of electricity proposed to be purchased in MW;</p> <p>(ii) tariff structure for expected life of the project depending upon the proposed fuel</p> <p>(iii) a summary of the type(s) of project(s) for which bids are requested including any requirements with respect to fuel type and availability, plant size, location, anticipated operational characteristics, requirements for system interconnection; and statement of extent of willingness to undertake necessary system</p>	The existing regulations are silent regarding the contents of RFP and the process of approval of RFP. The same has been provided in the regulations

	<p>interconnection if so required;</p> <p>(iv) annual availability requirement to be met by bidder; and</p> <p>(v) expected date of commencement of supply;</p> <p>(b) in case of transmission tariff.-</p> <p>(i) voltage level;</p> <p>(ii) quantum of energy to be transferred;</p> <p>(iii) length of transmission line;</p> <p>(iv) level of losses and design specifications; and</p> <p>(v) technical specification of conductors and wires;</p> <p>(c) term of contract proposed;</p> <p>(d) proposed price mechanism and cost parameters used in tariff determination for relevant project type;;</p> <p>(e) construction milestones to be specified by the bidders;</p> <p>(f) financial requirements to be met by bidders, including minimum net-worth, revenues, etc., with necessary proof of the same;</p> <p>(g) model power purchase agreement, energy purchase agreement or transmission service agreement proposed to be entered into with the</p>	
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	<p>bidder or any other agreement, which shall include details on:</p> <ul style="list-style-type: none"> (i) risk allocation between parties; (ii) technical requirements on minimum load conditions; (iii) force majeure clauses as per industry standards; (iv) lead times for scheduling of power; (v) default conditions, cure thereof, and penalties; and (vi) payment security proposed to be offered by the Relevant Agency; <p>(h) period of validity of offer of bidder;</p> <p>(i) other technical, operational and safety criteria to be met by bidder, including the provisions of the Grid Code and relevant orders of the Authority;</p> <p>(j) mode and manner of financial commitments from lenders at the time of submission of the bids;</p> <p>(k) bidding methodology and bid evaluation methodology to be adopted by the Relevant Agency;</p> <p>(l) conditions and criteria for bid disqualification, if any;</p> <p>(m) the method(s) of bidding adopted by the Relevant Agency</p>	
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	<p>under sub-regulation (3) of regulation 3;</p> <p>(n)bid bond or other bidding security instrument which the Relevant Agency may require to be posted by bidders;</p> <p>(o)constitution of bid evaluating committee;</p> <p>(p)time table of bidding process;</p> <p>(q)requirement upon all the bidders to support their respective bids with an affidavit as to correctness of the information and assumptions stated therein along with a statement as to not concealing any material information in their bids or any supporting documents;</p> <p>(r)requirement upon all bidders to submit a statement on affidavit regarding readiness to execute the project unconditionally;</p> <p>(s)such additional information as may be applicable to the bidding process; and</p> <p>(t) any other information as may be required by the Authority.</p>	
	<p>7. Approval by Authority.– (1) The Relevant Agency shall submit to the Registrar, the RFP complete in all respects, who shall place the same before the Authority within 7</p>	<p>The process of approval and the benchmarks on which the application for approval will be assessed by the Authority has been</p>

	<p>days of receipt thereof for admission;</p> <p>Provided that the Registrar may return the RFP if it is deficient or not in conformity with these regulations.</p> <p>(2) After admission, the Authority if satisfied that all the requirements of these regulations and other applicable laws are met, may with or without modification approve the RFP:</p> <p>Provided that the Authority may, before approving the RFP, conduct a hearing if deemed necessary, which shall be in accordance with the NEPRA Tariff (Standards & Procedure) Rules, 1998.</p> <p>(3) Save as provided in regulation 3, the Authority while approving the RFP shall also approve and specify the Benchmark Tariff for the purposes of Competitive Bidding.</p>	provided.
	<p style="text-align: center;">Part-IV Bidding and Content of Bids</p> <p>8. Bidding.— (1) After approval of the RFP, notice of inviting bids shall be published under intimation to the Authority in -</p> <p>(a) five (05) newspapers having wide national circulation;</p> <p>(b) three (03) newspapers having</p>	Provisions regarding bidding and content of bids has been provided

	<p>international circulation; and</p> <p>(c) relevant international and local procurement websites:</p> <p>Provided that the Relevant Agency may take such steps as are reasonable to bring the bidding process to the attention of those who may wish to submit bids.</p> <p>(2) The bidding process shall be conducted by the Relevant Agency in accordance with the RFP approved by the Authority.</p> <p>(3) Any deviation from the RFP approved by the Authority will render the entire bidding process void, unless prior approval of the Authority to such deviation has been obtained.</p> <p>(4) The Relevant Agency may repeat the bidding process, in accordance with the approved RFP, if the number of total bids received falls below three (03).</p>	
	<p>9. Content of Bids.— Without prejudice to the generality of the foregoing, the following information shall be provided by bidders:</p> <p>(a) corporate details of the bidder, including:</p> <p>(i) legal identity and structure;</p> <p>(ii) ultimate beneficial ownership</p>	

	<p>of the bidder:</p> <ul style="list-style-type: none"> (iii) where more than one party comprises the bidder (e.g. a consortium) a description of the proposed roles of each of the parties in relation to the bid (iv) copies of audited annual accounts of the bidder, including consortium members for the previous four years; and (v) details of any formal direct or indirect connection between the bidder and existing participants in the energy sector, including ownership or shareholding, consulting, service agreements, etc.; <p>(b) bidder's response to the technical specifications of the RFP;</p> <p>(c) indicative consideration (price) proposed by the bidder stated as PPA price divided into capacity (fixed) and energy Charges;</p> <p>(d) a finance plan indicating the funding mechanisms available to the bidder that would be used to support the financing for the project, including definitive evidence of debt and equity capital available for the project;</p> <p>(e) any material issues of concern to the bidder as to the terms of the model power purchase agreement proposed or any other agreement specified in the RFP;</p> <p>(f) details of relevant experience of</p>	
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	<p>the bidder and of its associates in relation to the design, construction, commissioning, ownership and operation of generation plant, both in Pakistan and elsewhere;</p> <p>(g) details of all internal and external authorizations which the bidder may require, such as board approvals and regulatory or foreign investment approvals, and the steps which have been taken to ensure those authorizations are obtained and at what stage those authorizations will be obtained;</p> <p>(h) any other information the bidder chooses to present as indicative of its qualifications to execute the RFP; and</p> <p>(i) any other information as may be required by the Relevant Agency.</p>	
<p>5. Based on the Bid Evaluation Report and the record placed before it, the Authority shall notify the successful bidders. Provided that the Authority may reject the recommended successful bidder in case the quoted rate is imprudent and unreasonable.</p>	<p style="text-align: center;">Part-V</p> <p style="text-align: center;">Bid Evaluation Report</p> <p style="text-align: center;">10. Submission of Bid Evaluation Report.— (1) The Relevant Agency upon successful completion of the bidding process shall submit to the Registrar the Bid Evaluation Report which shall include:</p> <p>(a) brief of the process followed;</p> <p>(b) statement regarding the compliance of RFP;</p> <p>(c) details of all bidders;</p> <p>(d) details of all responsive bids including proposed tariff and rates;</p> <p>(e) rationale for rejection of bids;</p>	<p>The existing regulations were silent regarding the contents of Bid Evaluation Report and its manner of submission to the Authority.</p>

	<p>(f) grid interconnection studies approved by the transmission company;</p> <p>(g) details of the successful bidder and bid; and</p> <p>(h) any other information the Authority may require from time to time.</p> <p>(2) The Registrar upon being satisfied that the Bid Evaluation Report is in compliance with these regulations shall place the same before the Authority within 7 days of receipt thereof for approval:</p> <p>Provided that the Registrar may return the Bid Evaluation Report if it is deficient or not in conformity with these regulations.</p> <p>(3) The Authority upon being satisfied that the requirements of these regulations, the approved RFP and other applicable laws have been complied with, shall approve the Bid Evaluation Report and notify the successful bidder:</p> <p>Provided that the Authority before approving the Bid Evaluation Report may appoint an independent auction auditor to submit its report on the conduct and result of the Competitive Reverse Auction.</p> <p>Provided further that the Authority may reject the successful bidder if –</p> <p>(a) the quoted rate is imprudent or unreasonable;</p>	
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	<p>(b) there is evidence deceptive or anti-competitive behavior, including collusion, predatory pricing and abuse of dominant position; or</p> <p>(c) subject to sub-regulation (4) of regulation 8, the total number of bids received is less than three (03) and the Relevant Agency fails to demonstrate that approval does not restrict competition and that the proposed rate is reasonable.</p>	
<p style="text-align: center;">Part-III Procedure for Approval</p> <p>6. Application for the approval of Competitive Bidding Tariff.--The successful bidder, as notified by the Authority, shall, within 15 days of the notification file an application with the Registrar seeking approval of the tariff along with the following documents-in-support:—</p> <p>i) Detail of technology, equipment supplier, make, model, year of manufacturing, useful life, date of achieving commercial operation, financial soundness of the company, and any other information in support;</p> <p>iii) Affidavit to verify the correctness of the contents of the application, information and documents filed with the Authority;</p> <p>iv) Generation Licence or an application for the grant of a generation licence; and</p> <p>v) Draft Power Purchase Agreement.</p> <p>7. An application for the approval of a competitive bidding tariff shall be filed in triplicate.</p> <p>8. The applicant shall pay a non-refundable application fee to the Authority for the consideration and processing of the application, calculated in accordance with</p>	<p style="text-align: center;">Part-VI Approval of Tariff</p> <p>11. Application for the approval of Tariff.— (1) The successful bidder, as notified by the Authority, shall, within 15 days of the notification, file an application with the Registrar seeking approval of the Tariff along with the following documents-in-support:</p> <p>(a) details of -</p> <p>(i) technology;</p> <p>(ii) equipment make, model, supplier, useful life and year of manufacturing;</p> <p>(iii) date of achieving commercial operations;</p> <p>(iv) financial soundness of the company;</p> <p>(v) and any other information in support;</p>	<p>The provisions related to approval of Competitive Bidding Tariff are essentially similar to the existing system with slight modifications. Plus the drafting issues have been streamlined</p>

<p>the Schedule attached to these regulations. The application shall be deemed to be filed only when all required information has been submitted by the applicant to the satisfaction of the Registrar.</p> <p>9. The Registrar shall present the application for the approval of a competitive bidding tariff to the Authority for decision within three days of the filing of any such application.</p> <p>10. Having satisfied that all the relevant and necessary information has been provided, the Authority may admit the application for processing. Provided that the Authority may seek any other information or documents which, in the opinion of the Authority, is material and necessary for arriving at an informed decision.</p> <p>11. The Authority may, before approving the RFP, decide to conduct a hearing if deemed necessary, and if it is decided to conduct a hearing then the procedure provided to conduct a hearing in NEPRA Tariff (Standards & Procedure) Rules, 1998 to be followed.</p> <p>12. The Authority may grant approval of the application or decide otherwise as the case may be, within fifteen (15) working days of Authority's admission of the case or the date of hearing, as the case may be.</p> <p>13. The Authority may reject the application in case any particulars furnished with the application are deficient or found to be false or materially inaccurate, provided that before declining the application, the Authority shall give an opportunity of hearing to the applicant.</p> <p>14. The decision of the Authority in respect of an application for granting approval of the generation tariff shall be intimated to the Federal Govt. for notification in pursuance of Section 31(4) of NEPRA Act.</p>	<p>(b) affidavit to verify the correctness of the contents of the Application and information and documents filed with the Authority;</p> <p>(c) licence or an application for the grant of a licence; and</p> <p>(d) draft power purchase agreement or any other agreement.</p> <p>(2) The Application shall be filed in triplicate.</p> <p>(3) The applicant shall pay a non-refundable Application fee to the Authority for the consideration and processing of the Application, calculated in accordance with the Schedule attached to these regulations.</p> <p>(4) The Application shall be deemed to be filed only when all required information has been submitted by the applicant to the satisfaction of the Registrar:</p> <p>Provided that the Registrar may return the Application if it is deficient or not in conformity with these regulations.</p> <p>(5) The Registrar shall present the Application to the Authority within 14 days of the filing of any such application.</p> <p>(6) Having satisfied that all the relevant and necessary information has been provided, the Authority may admit the Application for processing:</p> <p>Provided that the Authority may</p>	
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	<p>seek any other information or documents which, in the opinion of the Authority, are material and necessary for arriving at an informed decision.</p> <p>(7) The Authority may, before approving the Tariff, decide to conduct a hearing if deemed necessary.</p> <p>(8) The Authority may reject the Application in case any particulars furnished with the application are deficient or found to be false or materially inaccurate.</p> <p>Provided that before declining the application, the Authority shall give an opportunity of hearing to the applicant.</p> <p>(9) Subject to sub-regulation (7), the Authority may approve Tariff within fifteen (15) working days of the Authority's admission of the case or the date of hearing, as the case may be.</p> <p>(10) The decision of the Authority in respect of an Application shall be intimated to the Federal Government for notification in the official Gazette in pursuance of Section 31(4) of the Act.</p>	
	<p>12. Dispute Resolution.— In case of any dispute between the bidders and the Relevant Agency regarding compliance with the RFP or the non-compliance of these regulations, the same shall be referred to the Authority for decision.</p>	<p>The procedure of dispute resolution has been provided</p>

	13. Repeal. – The National Electric Power Regulatory Authority Competitive Bidding Tariff (Approval Procedure) Regulations, 2014 hereby stands repealed.	
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