

# NATIONAL ELECTRIC POWER REGULATORY AUTHORITY

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## NOTIFICATION

Islamabad, the /8 day of June 2020

S.R.O -----In exercise of the power conferred by Section 7(2) and Section 48 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997), the National Electric Power Regulatory Authority, in order to bring transparency in the selection of operation and maintenance contractors by generation companies, hereby notifies the following guidelines, namely.—

### **PART—I**

#### **Title, Commencement, Applicability and Definitions**

**1. Title and Commencement.**— (1) These guidelines may be called the National Electric Power Regulatory Authority (Selection of Operation and Maintenance Contractors by Generation Companies ) Guidelines, 2020.

(2) These guidelines shall come in force at once.

**2. Applicability.**— These guidelines shall be applicable to all power generation projects which are being implemented under the NEPRA Interim Power Procurement (Procedures and Standards) Regulations, 2005, a cost-plus tariff and upfront tariff and intend to engage operation and maintenance contractor at any stage during the currency of the project,.

**3. Definitions**— (1) In these guidelines 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) "Conflict of Interest" shall bear the meaning ascribed under sub clause (2) of clause 5 of these guidelines;

(d) "Cost Plus Tariff" means a tariff based on the estimated costs of the power project (or part(s) thereof) and a profit margin duly approved by the Authority;

(e) "Generation Company" means a person engaged in the generation of electric power and who carries out the bidding process for selection of an operation and maintenance contractor;

(f) "Independent Consultant" means an engineering consultant or firm that is registered with the Pakistan Engineering Council (PEC) and is not an affiliate of, or have any commercial relationship with, a company;

(g) "O&M Contract" or "Contract" means the operation and maintenance contract duly executed by the generation company with the prospective bidder;

(h) "O&M Contractor" means bidder who has been awarded an O&M Contract;

(i) "Relevant Agency" means any Government functionary or agency responsible for processing and/or execution of a power project and shall include K-Electric; and

(1) "Request for Proposal" or "RFP" means a document prepared by a Generation Company in accordance with **clause 6** of these guidelines.

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

- (3) Words imparting the singular shall include the plural and vice versa.

**PART — II**  
**Advertisement**

**4. Advertisement:** — (1) Advertisements for O&M tendering process shall be widely circulated and published —

- (a) in four national newspapers and two international newspapers of repute; and
- (b) on the website(s) of the Generation Company and the Relevant Agency; and
- (c) on two international tendering websites.

(2) At least fifteen (15) working days shall be given to bidders for collection of documents following the date of the advertisement.

(3) The time required for submission of bids by the bidders shall be in conformity with the nature, scope and magnitude of the O&M Contract, with a minimum of two (02) months being provided to bidders for site visits, bid clarification meetings and preparation of bids.

**PART—III**  
**Eligible Bidders and Request for Proposal**

**5. Eligible Bidders.**— (1) A bidder shall be —

- (a) a firm, company or body corporate;
- (b) a private or state-owned entity; or
- (c) any combination of such entities in the form of a joint venture.

(2) A bidder shall not have a Conflict of Interest and any bidder having a Conflict of Interest shall be disqualified immediately.

*Explanation:* In this sub-clause, a bidder is considered to have a Conflict of Interest for the purpose of the bidding process, if the bidder:

- (i) directly or indirectly controls, controlled by or is under common control with another bidder;
- (ii) has a commercial relationship with another bidder or the Independent Consultant, directly or through common third parties, that puts it in a position to influence the bid of another bidder or influence the decisions of the Generation Company regarding the bidding process; or
- (iii) has a commercial relationship with the professional staff of the project implementing agency who are directly involved in the preparation of the bidding document, the O& M Contract or, the bid evaluation process of the O& M Contract;

(3) A bidder, either individually or as part of a joint venture, shall not participate as a bidder or as part of a joint venture in more than one bid and such participation shall result in the disqualification of all bids in which the bidder is involved.

(4) Any person, firm, company or body corporate that is barred by any law in force in Pakistan or a decision of the federal government, provincial government, the Authority or any court shall be disqualified from bidding.

**6. Request for Proposal.**— (1) A detailed RFP document shall be prepared by the Generation Company calling for bids, which shall include but not be limited to the following information —

- (a) background information;
- (b) scope of work (operating and maintenance services);
- (c) Performance standards to be achieved
- (d) technical specifications;
- (e) prequalification criteria;
- (f) instruction to bidders;
- (g) timelines for deliverables;
- (h) conditions of contract;
- (i) penalties & incentives;
- (j) evaluation criteria; and
- (k) reference documents, for example the feasibility study and design of the project.

**PART — IV**  
**Tendering Process and Price Negotiation**

**7. Tendering Process:** (1) Pre-qualification of bidders shall be conducted as the first step of the tendering process for selection of O&M Contractor.

(2) The pre-qualification criteria shall be based on:

- (a) eligibility;
- (b) history of non-performance;
- (c) chronic litigation history;
- (d) professional competence of staff and equipment;
- (e) relevant experience;
- (f) financial capability; and
- (g) Affidavit that the firm is not blacklisted

(3) The evaluation for pre-qualification shall be carried out by an Independent Consultant.

(4) At least two bidders must be Pre-qualified for the tendering process to proceed:

Provided that if only a single bidder is pre-qualified, it would require approval of the Relevant Agency to proceed further.

(5) A single-stage two envelope bidding procedure shall be adopted for selection of the O&M Contractor.

(6) Bids shall be received as a single package containing two envelopes titled "the Technical Proposal" and "the Financial Proposal" respectively.

(7) Initially, only the Technical Proposal shall be opened in the presence of authorized representatives of the bidders while the financial proposal shall be kept unopened until the evaluation of the technical bid is complete.

(8) The technical bid shall be evaluated by an Independent Consultant in a manner prescribed in advance, specifying points for experience, equipment and staff, Operation & Maintenance methodology etc. as well as the minimum points required for technical qualification, without reference to the price.

(9) The technical bid evaluation shall ensure that the technical solutions offered by a bidder are feasible, deliverable and robust and are based on reliable technologies while meeting all minimum technical requirements/benchmarks related to O&M services.

(10) Any proposal not conforming to the specified requirements/minimum points earned shall stand disqualified.

(11) The points/score of the technical bid shall be carried forward in the final evaluation score for selection of the winning bid, which shall be based on a cumulative score of the technical and financial bids.

(12) After evaluation of the technical bids, the financial bids of the bidders technically qualified under this **clause 7** shall be opened in the presence of authorized representatives of the pre-qualified bidders for evaluation.

(13) The scoring of the technical and financial bids would be done by an Independent Consultant in a manner prescribed in advance and broadly following the evaluation criteria specified in the Schedule annexed to these guidelines.

(14) The winning bid shall be the bid having the highest combined ranking which shall comprise 40% of the technical score and 60% of the financial score.

**8. Price Negotiation with Selected Bidder.**— Price negotiation shall only be carried out with the winning bidder in an open and transparent manner.

9. In a case if OEM is also participating in the bidding process then OEM will have first right of refusal to match the price quoted by lowest evaluated bidder.

**PART — V**  
**Miscellaneous**

**10 . Written Record.**----- The written record of all activities relating to pre-qualification and the tendering process, including bid evaluation and O&M Contract, shall be maintained by the Generation Company and made available to Authority upon request.

**11. Self O&M.** ----- If a generation company intends to carry out self O&M then the evaluation of the costs may be carried out by an Independent Consultant and approved by the Authority in order to bring transparency and cost efficiency in the process.

Provided however generation companies in public sector, intending to carry out self O&M will be allowed to do so subject to their provision of such approvals and authorizations which are essential for public sector projects from the relevant agencies. NEPRA will decide the matter on case by case basis.

**12.** For those generation companies who have already signed their O&M contracts, upon completion of the term of O&M agreement, the generation companies are required to undergo the process for selection of O&M contractor approved by the Authority under, NEPRA (Selection of Operation and Maintenance Contractor by Generation Companies) Guidelines, 2020.”

Schedule  
 [See clause 7(13)]  
**EVALUATION CRITERIA**  
**PART A**

**Evaluation of Technical Bid**

The technical proposals will be evaluated using the following criteria:

<b>Criteria</b>	<b>Evaluation</b>	<b>Score</b>
<b>Relevant Experience, Past Performance &amp; Personnel Capabilities</b>	<ul style="list-style-type: none"> <li>• Experience of executing similar projects</li> <li>• O&amp;M services on plants during last 10 years. Atleast five project must be of same or higher size.</li> <li>• Past performance with similar projects in Pakistan</li> <li>• Availability of necessary O&amp;M plant and equipment</li> <li>• Qualified and experienced key operation &amp; maintenance &amp; management personnel (graduate engineers registered with PEC, qualified management, finance and account professionals)</li> <li>• Continuity and availability of personnel for the project.</li> <li>• Details of projects where the firm has provided either Operation or maintenance services.</li> </ul>	40
<b>Planning and Methods</b>	<ul style="list-style-type: none"> <li>• Well thought out project management plan structure which reflects the needs of the Contract</li> <li>• Clear and well defined procedures and interfaces.</li> <li>• Selection of O&amp;M equipment which is balanced and robust and appropriate to the anticipated ground conditions.</li> <li>• List down the forced outages history of any plant from past experience and measures taken to minimize those outages.</li> <li>• Contingency planning</li> </ul>	20

<b>(c) Equipment &amp; Plant Capabilities relevant to O&amp;M Services</b>	<ul style="list-style-type: none"> <li>• Plant layout and suitability of equipment proposed.</li> <li>• Description of major electrical and mechanical equipment items and systems</li> <li>• Procurement, delivery and transportation plan</li> <li>• Training and O&amp;M service plan</li> <li>• Critical Equipment required for the project shall be specified by the User/Employer. High Value Equipment should be an option to purchase, lease or hire.</li> </ul>	20
<b>(d) Health, Safety and Environment</b>	<ul style="list-style-type: none"> <li>• Demonstrates a corporate commitment to safety, proven solutions, safe working practices and culture, training and supervision.</li> <li>• Draft site-specific health and safety plan.</li> <li>• Acceptable safety statistics for at least one other project in Pakistan.</li> <li>• Demonstrates an understanding of the key environmental risks, provide adequate proposals for monitoring and managing those risks and complying with the environmental requirements of the O&amp;M Contract.</li> </ul>	5
<b>(e) Induction of Local Component</b>	<ul style="list-style-type: none"> <li>• The contractor shall encourage local resources which shall not be less than 60% for first year of its contract and gradually increasing over a period of 5 years so that the local resource is not less than 95%.in the fifth year.</li> </ul>	15
<b>Total Technical Score</b>		Max 100

*Note:* The above stated Evaluation Criteria for Technical Bid is for not technology specific and is general in nature; suitable project specific changes to the Criteria may be made as per technological requirements.

**PART - B**  
**Evaluation of Financial Bid**

- The Financial Bids shall be evaluated as follows:

<b>Criteria</b>	<b>Evaluation</b>	<b>Score</b>
<b>(a) Bid Price</b>	The Bid Price will be evaluated to determine the Evaluated Bid Score using the criteria defined in the notes below.	70
<b>(b) Reasonableness of pricing</b>	The pricing structure will be reviewed. Higher marks will be awarded to Bidders with pricing consistent with the technical proposal	5
<b>(c) Financial Strength</b>	Higher marks will be awarded for stronger balance sheet, greater financial resources, and larger annual turnover.	10

<b>(d) Conditions of Contract/Deliverables</b>	Lower marks will be awarded for exceptions to the Conditions of Contract/Deliverables specified in the RFP	15
<b>Total Financial Score</b>		Max 100

*Note:* The Evaluated Bid Score shall be obtained by adjusting the Bid Price as follows:

1. The Bid Price will be adjusted for correction of arithmetical errors.
2. Price adjustment will be made to account for any quantifiable material nonconformities and work, services, facilities, etc., to be provided by the Company.

The Evaluated Bid Price shall be obtained by the summation of the effect of the above factors. The lowest Evaluated Bid Price will be awarded an evaluated bid score of 70 points. Other Bids will be assigned points on a pro-rata basis as:

$$\text{Evaluated Bid. Score} = \frac{\text{Lowest Evaluated. Bid. Price}}{\text{Evaluated Bid Price}} \times 70$$

*Note:* As specified in Part IV of these Guidelines, the weightage of Financial Score and the Technical Score should be 60% and 40% respectively; hence the Financial Score shall be multiplied by 0.60 and the Technical Score shall be multiplied by 0.40 to arrive at the Total Final Score that would be used to determine the winning bid.