

National Electric Power Regulatory Authority
(Registrar Office)

No. NEPRA/LA(Leg.)/NCBT-01/6072

May 3, 2017

Subject: **NOTIFICATION (S.R.O 306(I)/2017 DATED 02-05-2017) REGARDING NEPRA COMPETITIVE BIDDING TARIFF (APPROVAL PROCEDURE) REGULATIONS, 2017**

Enclosed please find herewith a copy of Notification (S.R.O. 306 (I)/2017 dated 02-05-2017) regarding “*NEPRA Competitive Bidding Tariff (Approval Procedure) Regulations, 2017*”

2. This is for information and record please

Encl: As Above


3/5/17
(Iftikhar Ali Khan)
Director

1. SA(Tech.)
2. SA(Tariff- I)
3. SA(CAD)
4. DG(M&E)
5. Consultant (Hydropower)
6. DG(C&I)
7. Director (Licensing)
8. Director (CAD)
9. LA(LLP)
10. LA(KIP)
11. LA(Legislation)
12. LA(Licensing)
13. DD(IT) *[Please post the above SRO at NEPRA's website for information of the licensees, stakeholders and the interested parties.]*
14. Mr. Rizwan Ali Paracha *[To scan and send the subject SRO to IT Section for uploading on NEPRA's website.]*

CC:

6. Chairman
7. Vice Chairman/ Member (M&E)
8. Member (Licensing)
9. Member (Tariff)
10. Member (CA)

National Electric Power Regulatory Authority (NEPRA)

NOTIFICATION

Islamabad, the day of, 2017

02-05-2017

S.R.O 306 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, Commencement and Applicability.— (1) These regulations may be called the National Electric Power Regulatory Authority Competitive Bidding Tariff (Approval Procedure) Regulations, 2017.

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

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

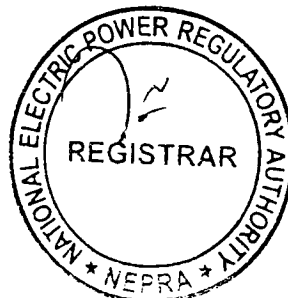
(4) These regulations shall only be applicable in cases where detailed feasibility studies are available and are not applicable in cases of Raw Sites.

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;

Rme



- (c) "Application" means an application filed for the approval of Tariff under regulation 12 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 Competitive Bidding;
- (e) "Bid Evaluation Report" means the report prepared and submitted by the Relevant Agency after completion of bidding process in accordance with the RFP approved by the Authority and these regulations;
- (f) "Competitive Bidding" means a process of obtaining bids/offers for Tariff carried out by the Relevant Agency;
- (g) "Information" includes Bid Evaluation Report, supporting documents, accounts, reports, records, data returns or estimates of any description;
- (h) "Raw Site" means a site for a power project where feasibility study and detailed engineering design has not been completed;
- (i) "Relevant Agency" means a distribution company, transmission licensee, any functionary of Federal Government or Provincial Government, or any agency/entity authorized by the Federal Government or 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

Duties of the Relevant Agency

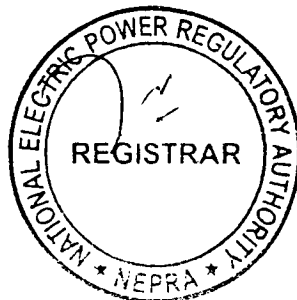
3. **Duties of the Relevant Agency.**— (1) The Relevant Agency while carrying out Competitive Bidding shall ensure that –

- (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 in accordance with the terms laid down in the RFP approved by the Authority;
- (e) the committee constituted by the Relevant Agency for evaluation of the bids has at least one member having expertise in competitive bidding and fulfilling the independence requirement;
- (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 transmission network of national grid company; and
- (h) the Bid Evaluation Report along with the record complete in all respect is submitted to the Authority.

Explanation:— for the purpose of clause (e), a person fulfills the ‘independence requirement’ if he is not an officer or employee of the Relevant Agency, or any of its affiliates, and does not have a direct or indirect interest, financial or otherwise, with the Relevant Agency or any of the bidders.



(2) The Relevant Agency while carrying out the pre-qualification process shall be uniform, consistent, transparent and non-discriminatory in its application to all prospective bidders.

PART-III

Conditions of Competitive Bidding

4. **Conditions.**— (1) The Competitive Bidding shall be conducted by the Relevant Agency keeping in view the demand forecasted by national grid company in accordance with the least cost generation plan of each distribution company.

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

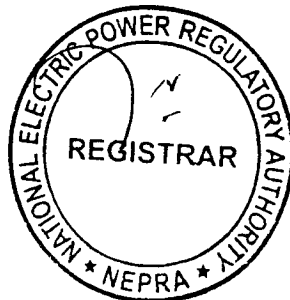
(3) The Relevant Agency may adopt any method of bidding as may be approved by the Authority, which shall be specified in the RFP.

(4) In case the Relevant Agency adopts a reverse bidding method, 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 may 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.



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PART-IV

Pre-Qualification of Bidders

5. **Pre-Qualification.**— (1) A Relevant Agency, prior to submitting an RFP for approval, may pre-qualify prospective bidders in accordance with this Part.

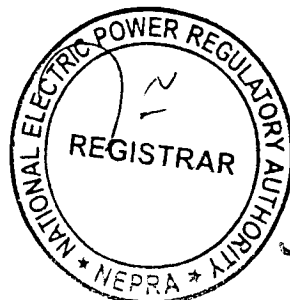
(2) The Relevant Agency shall announce, in the pre-qualification documents, all information required for pre-qualification including instructions for preparation and submission of the pre-qualification documents, evaluation criteria, list of documentary evidence required by prospective bidders to demonstrate their respective qualifications and any other information that the Relevant Agency deems necessary for pre-qualification.

(3) Notice of inviting applications for pre-qualification shall be published in newspapers having national and international circulation and on the website of the Relevant Agency.

(4) The Relevant Agency shall pre-qualify prospective bidders based on –

- (a) their ability to execute the project successfully;
- (b) relevant experience;
- (c) history of legal and regulatory compliance;
- (d) financial ability;
- (e) whether the applicant, or any officer, director or owner thereof, has been in substantial noncompliance of the terms and conditions of prior project contracts; and
- (f) any other factor that the Relevant Agency may deem appropriate.

(5) The Relevant Agency shall promptly notify each applicant in writing whether or not that applicant has been pre-qualified and shall make available to any person directly involved in the pre-qualification process, upon request, the names of all successful applicants:



Provided that in the event that an applicant is denied pre-qualification, the written notification to that applicant shall state the reasons for denial of pre-qualification.

(6) Notwithstanding anything contained in these regulations, the Relevant Agency may at any stage of pre-qualification, for reasons recorded in writing, disqualify a prospective bidder, where it finds that the information submitted by the same is false, misleading or materially inaccurate:

Provided that before disqualification under this sub-regulation, the prospective bidder shall be given an opportunity of hearing by the Relevant Agency.

PART-V

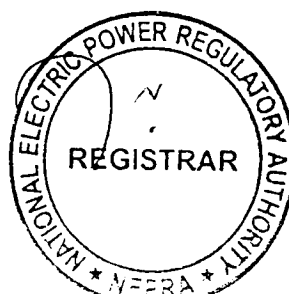
Approval of RFP

6. **Requirement of RFP.**— (1) The Relevant Agency shall prepare an RFP in accordance with the requirements of these regulations for the purposes of inviting bids.

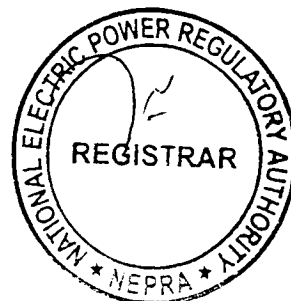
(2) The Relevant Agency must provide a transparent process of bidding to ensure promotion of competition.

7. **Content of RFP.**— Subject to regulation 4 and 5, 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) in case of pre-qualification, the list and information of successful pre-qualified bidders;
- (d) term of contract proposed;
- (e) detailed feasibility study;
- (f) dispute resolution mechanism to be adopted by the Relevant Agency;
- (g) proposed price mechanism and cost parameters used in tariff determination for relevant project type;
- (h) construction milestones to be specified by the bidders;
- (i) financial requirements to be met by bidders, including minimum net-worth, revenues, etc., with necessary proof of the same;
- (j) period of validity of offer of bidder;
- (k) other technical, operational and safety criteria to be met by bidder, including the provisions of the Grid Code and relevant orders of the Authority;
- (l) mode and manner of financial commitments from lenders at the time of submission of the bids;



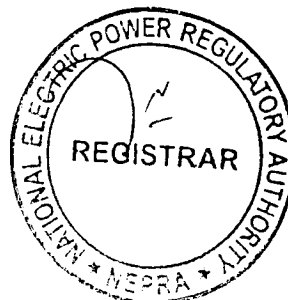
- (m) conditions and criteria for bid disqualification, if any;
- (n) the method(s) of bidding adopted by the Relevant Agency under sub-regulation (3) of regulation 4;
- (o) bid bond or other bidding security instrument which the Relevant Agency may require to be posted by bidders;
- (p) constitution of bid evaluating committee;
- (q) time table of bidding process;
- (r) 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;
- (s) requirement upon all bidders to submit a statement on affidavit regarding readiness to execute the project unconditionally;
- (t) such additional information as may be applicable to the bidding process; and
- (u) any other information as may be required by the Authority.

8. Approval by Authority.— (1) The Relevant Agency shall submit to the Registrar, the RFP complete in all respects along with a non-refundable fee, calculated in accordance with the Schedule attached to these regulations, who shall place the same before the Authority within seven (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:



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Provided further that the Authority may approve the RFP within fifteen (15) working days of the Authority's admission of the case or the date of hearing, as the case may be.

(3) Save as provided in regulation 4, the Authority while approving the RFP shall also approve and specify the Benchmark Tariff for the purposes of Competitive Bidding.

PART-VI

Bidding and Content of Bids

9. **Bidding.**— (1) After approval of the RFP, notice of inviting bids shall be published under intimation to the Authority:

- (a) in three (03) newspapers having wide national circulation;
- (b) in two (02) newspapers having international circulation; and
- (c) on 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:

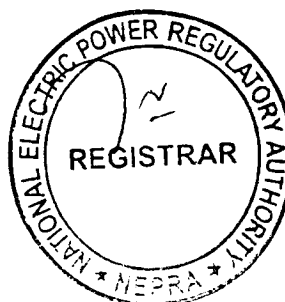
Provided further the requirement of publication shall not apply in the case of pre-qualified bidders.

(2) The process of bidding shall be completed within three (03) months after the approval of RFP by the Authority:

Provided that the Authority may upon a request of the Relevant Agency, received prior to the expiry of the said period, extend the time period for a term not exceeding one (01) month.

(3) Prior to commencing the bidding process, the Relevant Agency shall provide a model power purchase agreement, energy purchase agreement or transmission service agreement, or any other agreement, as the case may be, to all bidders.

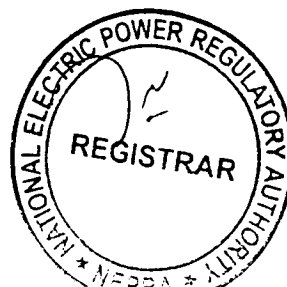
(4) The bidding process shall be conducted by the Relevant Agency in accordance with the RFP approved by the Authority.



(5) 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.

10. 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 bidder comprises of more than one party (e.g. a consortium), a description of the proposed roles of each party in relation to the bid;
 - (iv) copies of audited annual accounts of the bidder, and, in case of a consortium, financial strength of the members thereof; 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 definite evidence of equity capital available for the project;
- (e) 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;
- (f) details of all internal and external authorizations that the bidder may require (e.g board approvals and regulatory or foreign investment approvals) and the steps taken by the bidder to ensure these authorizations are obtained;
- (g) any other information the bidder chooses in support of his bid; and
- (h) any other information as may be required by the Relevant Agency.



PART-VII

Bid Evaluation Report

11. Submission of Bid Evaluation Report.– (1) The Relevant Agency shall upon successful completion of the bidding process notify the successful bidder and forthwith submit to the Registrar the Bid Evaluation Report, which shall include –

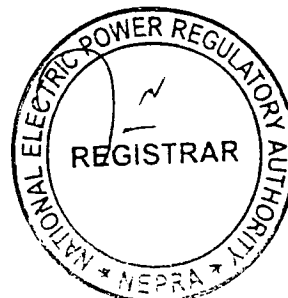
- (a) brief of the process followed;
- (b) statement regarding the compliance with RFP;
- (c) details of all bidders;
- (d) details of all responsive bids including proposed tariff and rates;
- (e) rationale for rejection of bids;
- (f) grid interconnection studies approved by the transmission company;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

(2) The Authority shall consider the Bid Evaluation Report while deciding the Application filed by the successful bidder.

PART-VIII

Approval of Tariff

12. Application for the approval of Tariff.– (1) The successful bidder, as notified by the Relevant Agency, shall, within fifteen (15) days of the notification and submission of Bid Evaluation Report by the Relevant Agency to the Authority, 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.

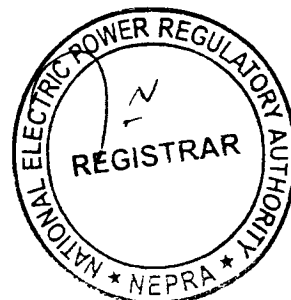
(3) The applicant shall pay a non-refundable Application fee to the Authority for the consideration and processing of the Application, calculated in accordance with the Schedule attached to these regulations.

(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 found deficient or not in conformity with these regulations.

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

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



Provided that the Authority may seek any other information or documents that, in the opinion of the Authority, are material or 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 if –

- (a) any particulars furnished with the Application and Information are found to be false, misleading or materially inaccurate;
- (b) any provision of these regulations has not been complied with;
- (c) the Bid Evaluation Report is not in accordance with the requirements of regulation 11; or
- (c) Competitive Bidding has not been conducted in accordance with these regulations or the Request for Proposal approved by the Authority:

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

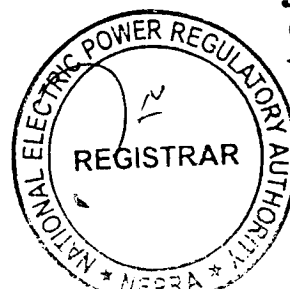
(9) Subject to sub-regulation (7), the Authority may approve Tariff within fifteen (15) working days of the Authority's admission of the case or the date of hearing, as the case may be.

(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-IX

Miscellaneous

13. **Savings.** – Save as otherwise specifically provided, nothing in these regulations, or any repeal effected thereby, shall affect or be deemed to affect anything done, action taken, determination, approval, document or agreement made, fee directed, direction or order given, proceedings taken or instrument executed or issued, under or in pursuance of any regulation repealed by these Regulations and any such thing, action, order, determination, document,

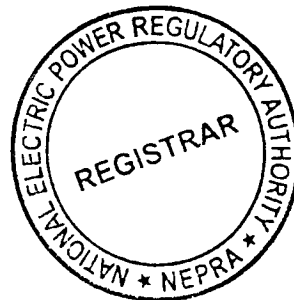



agreement, fee, direction, proceedings or instrument shall, if in force at the commencement of these regulations and not inconsistent with any of the provisions of these regulations, continue to be in force, and have effect as if it were respectively done, taken, commenced, made, directed, passed, given, executed or issued under these regulations or the law as amended by these regulations.

14. Removal of Difficulty and Relaxation of Requirements. – (1) If a difficulty arises in giving effect to any provision of these regulations, the Authority may issue such directions, not inconsistent with the Act, as it may consider necessary for the removal of such difficulty.

(2) The Authority may in a particular case, or class of cases, or if it would be in the interest of electric power services market, for reasons to be recorded in writing, relax such requirements subject to such conditions as it may deem fit.

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




2/5/17
Registrar

Schedule
[See Regulation 8 and 12]

PART-I

[A]

**APPLICATION FOR THE APPROVAL OF REQUEST FOR PROPOSAL
OR RFP FEE**

Category	Fee (Rupees)
Application for approval of RFP	500,000

[B]

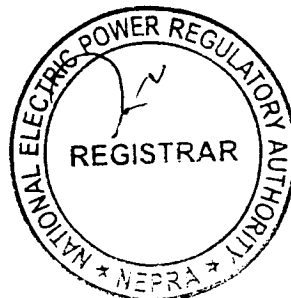
**APPLICATION FOR THE APPROVAL OF COMPETITIVE BIDDING OF
GENERATION TARIFF FEE**

Category	Fee (Rupees)
Upto 100 MW	500,000
101 MW to 500 MW	1,000,000
Above 500 MW	2,000,000

[C]

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

Category	Fee (Rupees)
Line Length upto 100km	500,000
101km to 200km	1,000,000
Above 200km	2,000,000



PART-II

INDEXATION OF FEES

1. The application fee for the approval of tariff arrived at through Competitive Bidding payable by an Applicant, 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.

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, 2017, are notified in the official Gazette.

