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NOTIFICATION

No. B.19018/9/2015-P&E/L, the 15th May, 2024: In the interest of Public Service, the Governor of Mizoram is pleased to notify the Guidelines for Tariff Based Competitive Bidding (TBCB) Guidelines for Intra State Transmission Projects in Mizoram as enclosed in the Annexure to this Notification with immediate effect and until further orders.

This issues with the approval of JERC for Manipur and Mizoram vide No.F.20019/13/24-JERC dt.09.05.2024.

Lalhmingliani Hmar,
Secretary to the Govt. of Mizoram,
Power & Electricity Department

Tariff Based Competitive Bidding (TBCB) Guidelines for Intra State Transmission Projects in Mizoram

1. PREAMBLE

1.1. As per the Seventh Schedule to the Constitution of India, the subject electricity is in Concurrent List. This implies that both central and state governments play key roles, and can regulate and operate in the electricity sector. Accordingly, electricity transmission system in India is generally categorised as Inter-State Transmission System (ISTS) and Intra-State Transmission System (Intra-STs). The Electricity Act, 2003 envisages competition in transmission and has provisions for grant of transmission licenses by the Central Electricity Regulatory Commission (CERC) as well as State Electricity Regulatory Commissions (SERCs).

1.2. Promotion of competition in the electricity industry in India is one of the key objectives of the Electricity Act, 2003 (the Act). Development of a transmission system is essential both for encouraging competition and for creating electricity markets. These guidelines are aimed at facilitating competition in this sector through wider participation in providing transmission services and tariff determination through a process of tariff based competitive bidding.

1.3. Section 61 & 62 of the Electricity Act provide for tariff regulation and determination of tariff of generation, transmission, wheeling and retail sale of electricity by the Appropriate Commission. Tariff based Competitive Bidding Guidelines for Transmission Service and Guidelines for encouraging competition in development of Transmission Projects have been framed under the provisions of section 63 of the Act.

1.4. The Tariff Policy notified on 28th January, 2016 states that intra - state transmission projects shall be developed by State Government through competitive bidding process for projects costing above a threshold limit decided by the SERCs.”

1.5. The specific objectives of these guidelines are as follows:

- 1.5.1 Promote competitive procurement of transmission services.
- 1.5.2 Encourage private investment in transmission system.
- 1.5.3 Facilitate transparency and fairness in procurement processes;
- 1.5.4 Facilitate reduction of information asymmetries for various bidders;
- 1.5.5 Protect consumer interests by facilitating competitive conditions in procurement of transmission services of electricity;
- 1.5.6 Enhance standardization and reduce ambiguity and hence time for materialization of projects;
- 1.5.7 Ensure compliance with standards, norms and codes for transmission systems while allowing flexibility in operation to the transmission service providers.

2. SCOPE OF THE GUIDELINES

2.1. These guidelines are being issued under the provisions of Section 63 of the Electricity Act, 2003 for procurement of transmission services for transmission of electricity.

2.2. The guidelines shall apply for procurement of transmission services for transmission of electricity through tariff based competitive bidding, through the mechanisms described in this notification and to select the bidder who will acquire Special Purpose Vehicles (SPV) for a new intra state transmission system and to build, own, operate and transfer the specified transmission system elements. Standard Bidding Documents for intra-state transmission projects are developed on the basis of the postage stamp method of tariff computation. In case sharing mechanism is adopted as specified under Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020, Standard Bidding Documents for inter-state transmission projects with suitable modifications and approval from the Appropriate Government shall be followed for award of intra-state transmission projects.

2.3. The project assets along with substation land with rights, right of way and clearances shall compulsorily be transferred to an agency as decided by the State Government after expiry of contract period of project, at zero cost and free from any encumbrance and liability. The contract period for the intra state transmission projects may be 35 years or any period as fixed by the Long-Term Transmission Customers (LTTCs) or Bid Process Coordinator (BPC) as per the relevant regulations of the Appropriate Commission. The State Transmission Utility (STU), i.e. Power & Electricity Department, Govt, of Mizoram (being the planning agency), in the year which is three (3) years prior to the expiry of the project, will examine the need of upgradation of the system or renovation and modernization of the existing system depending on technological options and system studies at that time. The project may then be awarded to successor bidder selected through a competitive bidding process for renovation and modernization, if required, and operation and maintenance after contract period of the project. In case, any cost is incurred by STU towards examining the need of upgradation or renovation and modernization of the existing system and transfer of assets, the same may be recovered from successor selected bidder.

2.4. Providing transmission services would include all activities related to survey, detailed project report formulation, arranging finance, project management, obtaining transmission license, obtaining right of way, forest clearance, environment clearance, statutory and other necessary clearances, site identification, land

acquisition and payment of compensation, design, engineering, quality control, procurement of equipment, material, construction, erection, testing and commissioning, maintenance and operation of transmission lines and/or substations and / or switching stations and/or HVDC links including terminal stations and HVDC transmission line. It will be in such a manner that the required transmission services as specified in the bid document are provided from execution of the project up to completion and commissioning and its subsequent maintenance and operation so that the facilities are available as per the target for recovery of full transmission charges as quoted by the selected bidder during the e-reverse bidding and adopted by the Appropriate Commission. For availability of transmission system below the target, subject to para 2.5 below, transmission tariff payable to the Transmission Service Provider (TSP) will be in accordance with the provisions of Transmission Service Agreement (TSA).

2.5. If the availability of the transmission system is below the norms prescribed in the Transmission Service Agreement (TSA), for six consecutive months, the Nodal Agency, i.e. Power & Electricity Department, Govt, of Mizoram may terminate the TSA. If the procurer of transmission service or Nodal Agency is of the opinion that the transmission system is of critical importance, it may carry out or cause to carry the operation and maintenance of transmission system at the risk and cost of TSP as a time gap arrangement and approach the Appropriate Commission for suitable action as per the procedure laid down under the Electricity Act 2003.

3. Bid Process Coordinator (BPC)

3.1. For procurement of transmission services required for intra-state transmission, the State Government may notify the STU or any Organi2ation/State Public Sector Undertaking as the Bid Process Coordinator or may engage the services of the BPC notified by the Central Government.

3.2. For conducting the bid process for procurement of required transmission services for each transmission project, BPC shall charge a professional fee @ 1% of the estimated cost of the project subject to minimum of Rs. 5 Crore and a maximum of Rs. 15 Crore for each project.

3.3. All the expenditure incurred by the BPC in the process of selection of the developer in accordance with the provisions of these guidelines shall be recovered from the developer who is finally identified and assigned the task of developing that project. The amount to be recovered shall be indicated in the Request For Proposal (RFP) document so that bidders can take that amount into consideration in the tariff to be quoted by them. Further, there should not be a variation of more than 5% in the amount indicated in the RFP document and amount to be Finally paid at the end of bidding process by selected bidder. Also, in case the bidding process for a transmission scheme is cancelled/denotified, the expenditure incurred by BPC on that scheme may be recovered when the scheme is rebid. In case the scheme is no longer required or given on regulated tariff mechanism, the expenditure incurred by BPC on that scheme may be allocated to upcoming schemes with the permission of Ministry of Power.

4. Preparation for inviting bids

4.1. The BPC shall prepare the bid documents in accordance with these guidelines and obtain approval of the State Government. Alternatively, the BPC can use the Standard Bidding Documents notified by Ministry of Power, Govt, of India. Any material deviation from the Standard Bidding Documents shall be made only with the prior approval of the State Government. A Bid Document will be said to have material deviation from Standard Bidding Documents, if it proposes to procure transmission service with substantial difference in one or more of the following aspects as compared to Standard Bid Documents:

1. Scope, quality, or performance standards of the transmission service;
2. Rights, roles and obligations of the TSP and Nodal Agency
3. Qualification Requirement
4. Values of Bid Bond, Contract Performance Guarantee & Liquidated Damages

4.2. Intimation shall be sent by the BPC to the State Electricity Regulatory Commission about initiation of the bidding process.

4.3. The bid documents shall also include Project Profile and survey report. The Project Profile (PP) must contain relevant data regarding the line i.e. voltage level, line configuration i.e S/C or D/C, functional specifications of conductor etc. and functional specifications of the substations or converter stations (in case of HVDC line). The survey report shall have one suggested route with approximate route length, type of terrain, max. altitude, snow zones, Wind zones, forest/wildlife infringement, infringement of endangered species habitat, vicinity to civil and defence Airports, major river/sea crossings & coal/ mineral mine areas likely to be encountered and location of substations or converter stations.

4.4. For location specific substations, switching stations or HVDC terminal or inverter stations the BPC should initiate the process of acquisition of land. The BPC will also initiate the process of seeking forest clearance, if required.

5. Transmission Service Provider (TSP)

5.1. The Special Purpose Vehicle (SPV) incorporated by BPC shall be designated as the Transmission Service Provider (TSP), hereinafter referred to as the TSP, after submitting a contract performance guarantee and acquiring the SPV by the successful bidder. The TSP shall seek transmission license from the State Electricity Regulatory Commission.

5.2. The TSP would take-up execution of the Transmission Project so as to complete commissioning and operationalization of the transmission system as per the specified schedule in the TSA.

6. Recovery of Transmission Charges

6.1. Total charges for the transmission system provided by the TSP(s) selected through the e- reverse bidding process as per these guidelines, payable to the TSP, shall be determined as specified in paras 7.1, 7.2, 7.3, 7.4 and 7.5 of these guidelines.

6.2. Recovery of transmission charges from the Long -Term Transmission Customers (LTTs) such as State supply utilities, distribution companies, generation companies, traders, bulk consumers, etc., shall be done as provided in these guidelines and relevant regulations of the State Electricity Regulatory Commission as notified from time to time.

7. Transmission Charge Structure

7.1. For procurement of transmission services under these guidelines, Transmission charges shall be paid and settled for each payment period as per regulations of the State Electricity Regulatory Commission. Annual transmission charges for the first year, which shall remain fixed for the period of 35 years from COD of project, shall form the basis for bidding and evaluation.

7.2. The BPC shall specify scheduled month of commercial operation for the transmission system required for the transmission service.

7.3. The monthly tariff payable shall be annual tariff multiplied by no. of days in that month and divided by no. of days in the year.

7.4. Tariff shall be designated in Indian Rupees only. Foreign exchange risks, if any, shall be borne by the TSP.

7.5. The bidder with the lowest annual transmission charges discovered after the e-reverse bidding procedure will be considered for the award. The Evaluation Committee shall have the right to reject all price bids if the rates quoted are not aligned to the prevailing prices.

8. Payment Security Mechanism

8.1. Payment security shall be made available to the TSP by the user of transmission services being provided by the TSP. The payment security may include:

1. Irrevocable revolving Letter of Credit (LC)
2. Other measures, including regulation of power of the defaulting user(s) of the transmission services.

9. Bidding Process

9.1. For the procurement of transmission services under these guidelines, BPC shall adopt a single stage two envelope tender process featuring Request for Proposal (RFP). The bid documents shall be prepared in accordance with para 4.1 of these guidelines. The entire bidding process shall be conducted online through electronic medium under e-reverse bidding framework.

9.2. RFP notice should be published in at least two national newspapers, website of the BPC and preferably in trade magazines also, so as to accord it wide publicity. The bidding shall necessarily be by way of International Competitive Bidding (ICB). For the purpose of issue of RFP, minimum conditions to be met by the bidder shall be specified in the RFP.

9.3. BPC shall provide only written interpretation of the tender document to any bidder/participant, asking for the same, and the same shall be made available to all other bidders. All parties shall rely solely on written communication and acceptances from the BPC.

9.4. Standard documentation to be provided in the RFP shall include:

9.4.1. Definition of requirements, including:

- Brief description of the Project;
- Commissioning milestones to be achieved by the bidders;
- Qualification requirements to be met by bidders including, minimum net-worth, etc with necessary proof of the same, as outlined in the bid documents;

9.4.2. Specified target dates/months for commissioning and commercial operations -

Construction time shall be as recommended by National Committee on Transmission depending on terrain, complexity of the project and line length etc., subject to a minimum of 18 • months.

9.4.3. Standard Transmission Service Agreement (TSA) - The TSP on the date of acquisition of SPV from the BPC will enter into a Transmission Service Agreement (TSA) with the concerned utilities.

9.4.4. Required Period of validity of offer of bidder

9.4.5. The TSA proposed to be entered with the SPV - The TSA proposed at the RFP stage may be amended based on the project specific inputs received from bidders during the pre- bid conference and it will be made available to all RFP bidders. No further amendments shall be carried out in the TSA;

9.4.6. Bid evaluation methodology to be adopted by the BPC - The initial price offer submitted online with the RFP shall be evaluated based on annual transmission charges for all components covered under the package as quoted by the bidder. The transmission charges of initial offer shall be ranked on the basis of ascending order for determination of the qualified bidders. Bidders in the first 50% of the ranking (with any fraction rounded off to higher integer) in RFP stage or 4 (four) bidders, whichever is more shall qualify to participate in the e-reverse bidding. In case the number of responsive bidders in RFP stage is between 2 (two) to 4 (four), all will qualify to participate in the e-reverse bidding. In case only one Bidder remains after the responsiveness check, the initial offer of such Bidder shall not be opened and the matter shall be referred to the Government. In the event of identical transmission charges discovered from the initial offer having been submitted by one or more bidders, all such bidders shall be assigned the same rank for the purpose of determination of qualified bidders. In such cases, all the bidders who share the same rank till 50% of the ranks determined above, shall qualify to participate in the e-reverse bidding. In case, 50% of the ranks (with any fraction rounded off to higher integer) is having less than 4 (four) bidders and the rank of the fourth bidder is shared by more than 1 (one) bidder, then all such bidders who share the rank of the fourth bidder shall qualify to participate in the e- reverse bidding. The lowest transmission charges discovered from the initial offers will be the ceiling price for the next round i.e e-reverse bidding stage. During the e-reverse bidding stage, the qualified bidders in the RFP stage would be required to place their bids at least 0.25% lower than the prevailing lowest bid, as long as they wish to continue in the reverse auction. The initial period for conducting the e-reverse bidding should be 2 hours which will be extended by 30 minutes from the last received bid time, if the bid is received during the last 30 minutes of the scheduled or extended bid time. Subsequently, it will be extended again by 30 minutes from the latest received bid time.

Illustration

(i) *If there are 10 bidders who are holding ranks as LI, L2, L3, L4, L5, L6, L7,L8, L9,L10 in ■ such a case the 50% of the ranks i.e. 5 is having 5 bidders. Accordingly, total 5 bidders i.e LI, L2, L3, L4, L5 will be qualified to participate in reverse auction.*

(ii) *If there are 8 bidders who are holding ranks as LI, LI, L2, L2, L2, L3, L4,L5, in such a case the 50% of the ranks (rounded of to next higher integer) i.e. 3 is having 6 bidders. Accordingly, now total 6 bidders i.e. LI, LI, L2, L2, L2, L3 will be qualified to participate in reverse auction.*

(iii) *If there are 8 bidders who are holding ranks as LI, L2, L3, L4, L4, L5, L5, L6, in such a case the 50% of the ranks i.e. 3 is having only 3 bidders and the rank of the fourth bidder is shared between 2 bidders. Accordingly, now total 5 bidders i.e. LI, L2, L3, L4, L4 will be qualified to participate in reverse auction.*

9.4.8. The RFP will also specify the bid bond as well as the Contract Performance Guarantee that the bidders will have to furnish.

9.4.9. The proposed indemnification arrangement between the TSP and the utilities will also be provided in the TSA. This indemnification will be applicable to both the TSP and the Utilities from the effective date of the TSA.

9.4.10. The TSA shall also specify the liquidated damages that shall apply in event of delay in start of providing the transmission services.

9.4.11. The TSA shall also specify the technical, operational and safety criteria to be met by bidder/ TSP.

9.4.12. The TSP will have to obtain Transmission License from the State Electricity Regulatory Commission in accordance with relevant regulations.

9.5. BPC may call a pre bid conference with all prospective bidders, who have sought documents for RFP stage. In case the bidders seek any project- specific deviations and BPC finds that those deviations are reasonable, the BPC may agree to such deviations, with reasoning for acceptance of such deviations. The clarification/revised-bidding document shall be given to all who had sought the RFP document informing about the deviations and clarifications. Wherever revised bidding documents are issued, the BPC shall provide bidders at least fifteen (15) days after issue of such documents for submission of bids.

9.6. Bid submission and evaluation:

To ensure competitiveness, the minimum number of qualified bidders will be two.

9.7. Bid opening committee:

The STU/ State Government shall constitute a committee for opening of bids.

9.8. Bid evaluation committee:

The STU/ State Government shall constitute a committee for evaluation of the bids.

9.9. The technical bids shall be examined to ensure that the bids submitted meet minimum eligibility criteria set out in the bid documents on all technical evaluation parameters. Only the bids that meet all elements of the minimum technical criteria set out in the bid documents shall be considered for further evaluation on the transmission charges bids.

9.10. The online initial price bids shall be electronically opened by the bid opening committee in presence of the bid evaluation committee. Only the lowest initial offer(s) shall be communicated to all the Qualified Bidders to participate in the e-reverse bidding process. During the e-reverse bidding process only the lowest prevailing bid should be visible to all the qualified bidders on the electronic platform.

9.11. The transmission charge bid shall be rejected if it contains any deviation from the bid documents for submission of the same.

9.12. The lowest transmission charges discovered from the quoted annual transmission charges during the e-reverse bidding process will be considered for the award. In case, no bid is received during the e-reverse bidding stage then the lowest initial offer shall be deemed to be the final offer.

10. Arbitration:

In case of any dispute regarding TSA or tariff, the same will be subject to jurisdiction of the State Electricity Regulatory Commission under the provisions of the Electricity Act, 2003.

11. Time Table for Bid Process:

11.1 A time-table for the Single stage bid process is indicated below. The procurer may give extended time-frame indicated herein based on the prevailing circumstances and such alterations shall not be construed to be deviation from these guidelines.

Events	Elapsed time from Zero date
Publication of Gazette Notification for BPCs	Zero date
Publication of RFP	2 days
Bid clarification, conferences, etc., & revision of RFP	40 days
Technical and initial offer submission	65 days
E-reverse bidding after opening of the initial offer	75 days
Short-listing of bidder and issue of LOI	8 days post close of e-reserve bidding process
Signing of Agreements	10 days post issuance of LOI

12. Contract award and conclusion:

12.1. After selection and issue of the Letter of Intent (LOI) from the BPC, the selected bidder shall execute the share purchase agreement to acquire the PV created for the Project to become TSP in accordance with the terms and conditions as finalized in the bid document and execute the TSA.

12.2. The TSP shall make an application for grant of transmission license to the State Electricity Regulatory Commission within five (5) working days from the date of execution of share purchase agreement for acquisition of SPV.

12.3. The BPC shall make the final result of evaluation of all bids public.

12.4. The final TSA, along with the certification by the bid evaluation committee, shall be forwarded to the State Electricity Regulatory Commission, for adoption of tariff discovered from the quoted annual transmission charges during the e-reverse bidding process in terms of Section 63 of the Act.

13. Termination of Transmission Service Agreement:

13.1. The Transmission Service Agreement may be terminated by Nodal Agency upon occurrence of any event, as detailed in Transmission Service Agreement.

13.2. Upon termination of Transmission Service Agreement, the Nodal Agency may take steps to bid out the Project again.