

Analysing the Tariff-Based Competitive Bidding Guidelines

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Introduction

The evolution of India's energy landscape is marked by a dedicated effort to leverage the potential of renewable energy sources. This is led by the National Solar Mission's[1] innovative strategy of combining solar power with conventional thermal energy. This step has marked the beginning of a journey to establish a strong renewable energy industry. The proactive measures taken by the Indian government to mitigate risks associated with solar and wind power ventures, combined with technological advances and economies of scale, have resulted in a reduction in tariffs.

Managing the intermittent nature of renewable sources, along with its variability becomes a significant challenge with the growth of the nation's renewable energy capacity. Electricity distribution companies (DISCOMs) are procuring balancing power to address this concern and assure grid stability. This has led to the emergence of a new imperative, which is the provision of renewable energy that is both dependable and dispatchable to meet the needs of consumers. The Electricity Act of 2003 has paved the regulatory way for transparent tariff determination, fostering competition, and decreasing distribution licensees' power procurement costs.

In light of this and pursuant to *Section 63* of the Electricity Act, the Ministry of Power, on 9th June 2023, released the "*Guidelines for Tariff Based Competitive Bidding Process for Procurement of Firm and Dispatchable Power from Grid Connected Renewable Energy Power Projects with Energy Storage Systems.*"[2] This article elaborates and analyses the guidelines in the following manner:

- Objective of the Guidelines
- Scope of the Guidelines

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- Objectives of the Guidelines
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- Overview of the Guidelines
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 - Power Purchase Agreement (PPA)
 - The Bidding Process and the RFS Document
 - Bid Timetable and Awarding the Contract
 - Provisions for Guarantee and Shareholding by the Promoter
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 - What is the purpose of these Guidelines?
 - Who is responsible for providing firm and dispatchable RE?
 - How are deviations from the Guidelines dealt with?

Objectives of the Guidelines

These guidelines encompass a wide range of objectives, including the provision of reliable and dispatchable power from renewable sources to DISCOMs, facilitating the expansion of renewable capacity, and meeting Renewable Purchase Obligation (RPO)/ Storage Power obligations (SPO) requirements. They establish a transparent and standard procurement framework through competitive bidding, assuring competitive prices, risk-sharing, and reasonable returns for investors, as well as enabling interstate/intrastate long-term power transactions to improve sector stability and resilience.

Scope of the Guidelines

These guidelines outline the competitive bidding procedure for the long-term procurement of firm and dispatchable power from Renewable Energy (RE) Power Projects pursuant to Section 63 of the Electricity Act. They define the scope, the role of Procurers and Authorised Representatives, and introduce terms such as 'Firm and Dispatchable RE Power.' The framework outlines the functions of Renewable Energy Power Generators, Renewable Energy Parks, Intermediary Procurers, and End Procurers, with an emphasis on Act compliance. Standard Bidding Documents, such as Model RfS, PPA, and PSA, are anticipated to elaborate on these tenets. To assure a structured manner, any deviations must comply with Clause 17.

Overview of the Guidelines

Bid Preparation and Project Readiness

In terms of bid preparation and project readiness, the Procurer is responsible for creating bid documents in accordance with the Guidelines and obtaining government approval for any deviations in draft agreements through the prescribed procedure. If the Procurer's agreements comply with the provisions of the Guidelines, this is not deemed a deviation. In addition, the Request for Selection (RfS) may define additional project milestones and reporting responsibilities for the Generator, along with penalties for noncompliance. Additionally, the Generator is responsible for obtaining all required clearances, permits, and licences, as well as assuring land and grid

connectivity prior to the scheduled start of power supply, and the Procurer is exempt from liability for any delays.

Energy Mix and Tariff

Regarding the energy mix, the Generator must provide firm and dispatchable renewable energy power that meets specified availability and demand criteria, with penalties for shortfalls. Annually, 100% of the energy supplied must come from RE Power, with a 5% allowance for green market or bilateral agreements.

For tariff, bidders are required to submit a single Tariff for firm and dispatchable RE power, applicable at the CTU interconnection point and including all expenses and losses until delivery.

Bid Structure

The bid structure consists of inviting bids in terms of Power Capacity (MW), with the tariff per unit of firm and dispatchable RE power serving as the primary bidding parameter. Consortia may be formed by bidders, and the Evaluation Committee evaluates technical and financial criteria. In addition to submitting separate technical and price proposals, bidders also submit an Earnest Money Deposit. Technical bids that meet eligibility requirements are evaluated for price, and a minimum of two qualified bidders are sought for competitiveness. Price proposals that deviate from the tender conditions are rejected, and the RfS outlines the evaluation and selection procedure in detail.

Power Purchase Agreement (PPA)

The draft PPA and the potential PSA are issued alongside the RfS with standard provisions. The PPA duration is typically 20 years from the Scheduled Commencement-of-Supply Date (SCSD), with an extension of up to 25 years possible. The Generator may operate the facility following the expiration of the PPA, implement upgrades, and take part in future bidding with untied capacity. The procurement of power is contingent on specified conditions, and a Generator may supply power in excess of contracted capacity to third parties or a power exchange without a NOC. Compensation mechanisms have been established and the provisions for Force Majeure, an event of default, and a Change in Law comply with industry standards and regulations.

The Bidding Process and the RfS Document

Using secure e-procurement platforms, the Procurer employs a two-part e-bidding procedure involving Technical and Financial bids. Generators are invited to participate in RfS for RE Power Plants with Energy Storage. The conformity of the bid documents to the Guidelines and Standard Bidding Documents (SBD) is essential. The RfS notice is extensively published, and pre-bid conferences and written clarifications are offered.

The provisions of the RfS include bid responsiveness criteria, technical and financial qualifications, a net worth requirement of 20% of the estimated project cost, liquidity indicators, and a specified Earnest Money Deposit (EMD) of at least 2% of the project cost. Foreign bidders selected must adhere to India's FDI regulations. These measures ensure that the bidding process is competitive, properly implemented, and financially stable.

Bid Timetable and Awarding the Contract

The bid procedure requires a minimum of 22 days from the issuance of the RfS document to bid submission. Key events include bid clarification, technical and financial bid evaluations, the e-Reverse Auction, and the issuance of the Letter of Award. Typically, the duration of the process is around 110 days.

The PPA is signed by the successful bidder, either directly or through an SPV. The Evaluation Committee ensures a fair bidding process, and the details and pricing of the bidder who was selected are made public for transparency. Provisions for Guarantee and Shareholding by the Promoter

The Generator is required to provide Earnest Money Deposit (EMD) and Performance Guarantee (PBG) via Bank Guarantee or "Payment on Order instrument"/Letter of Undertaking from Indian Renewable Energy Development Agency (IREDA), Power Finance Corporation Limited (PFC), or REC Limited (REC). The PBG must be returned within 45 days of project SCSC or part commencement.

The successful bidder's shareholding in the executing company must remain above 51% for one year following the SCSD, and control cannot be transferred without the prior sanction of the Procurer.

Commencement of Power Supply and Transmission Connectivity

The commencement of power supply is outlined in the PPA, and projects generally start within size-based timeframes. Delays lead to penalties, and if the power supply is delayed beyond a certain period, the contracted capacity could be reduced or the RE Power Generator could be disqualified. Partially commencing supply is permitted for a minimum of 50 MW without modifying the SCSD. Early delivery of completed components from outside the PPA is permitted, with the right of refusal and a discounted rate if procured by the Procurer or Intermediary Procurer.

The Generator is responsible for securing Transmission Connectivity to the ISTS network at their expense, with energy measurement at designated metering points. The costs for wheeling, losses and beyond the metering point are allocated in accordance with the regulations.

Other Provisions

The guidelines emphasise the use of established technologies, outline technical specifications for renewable energy initiatives, and require strict adherence to the process to ensure fairness. If deviations are necessary, they must be approved by the relevant commission. Mechanisms for dispute resolution include the CERC or the Dispute Resolution Committee, with the Ministry of Power empowered to provide clarifications. The renewable energy purchased through the programme satisfies RPO conformance, and ISTS fees and losses adhere to existing regulations.

Conclusion

These extensive guidelines from the Ministry of Energy provide a clear framework for the competitive procurement of firm and dispatchable renewable energy power, ensuring transparency, standardization, and legal compliance. By delineating roles, technical specifications, bidding processes, and dispute resolution mechanisms, these guidelines facilitate an efficient path toward generating sustainable and reliable energy.

Frequently Asked Questions (FAQs)

What is the purpose of these Guidelines?

These guidelines outline the process for procuring firm and dispatchable RE power through competitive bidding, as mandated by Section 63 of the Electricity Act.

Who is responsible for providing firm and dispatchable RE?

The Renewable Energy Power Generator (RE-PG) is responsible for supplying firm and dispatchable RE, which is also energy-storage-enabled.

How are deviations from the Guidelines dealt with?

Deviations must be in accordance with Clause 17 of the Guidelines and require approval from the appropriate Commission.

[1] <https://mnre.gov.in/solar/current-status/>.

[2]

https://powermin.gov.in/sites/default/files/webform/notices/Guidelines_for_Tariff_Based_Competitive_Bidding_Process_for_Procurement_of_Firm_and_Dispatchable_Power_from_Grid_Connected_Renewable.pdf.

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