

Clarification-I dated 11.07.2024 to the bidding document of **Appointment of Independent Engineer for “Transmission System for evacuation of power from potential Renewable Energy Zone in Khavda area of Gujarat under Phase-IV (7 GW) Part E2”**. Spec. No. CTUIL/IE/2024-25/40. GeM Bid No.: GEM/2024/B/5094025 dated 27.06.2024

Sr. No	Clause No.	As per RfP Document	Clarifications sought by bidders	Clarifications from CTUIL
1.	Clause 8.1 of Terms of Reference (TOR)	Note: After award of contract, hiring agreement between Independent Engineer & Key personnel shall be furnished by successful bidder to CTU within 15 days from the issuance of GeM Contract Order	We would request CTUIL to modify the concerned clause as per below: “After award of contract, hiring agreement between Independent Engineer & Key personnel shall be furnished by successful bidder to CTU within 30 days from the issuance of GeM Contract Order.	Requirement of bidding documents shall be followed.
2.	Clause 9 of Terms of Reference (TOR)	Termination of appointment of Independent Engineer	We would also request CTUIL to allow Independent Engineer too have suspension /termination right.	Requirement of bidding documents shall be followed.
3.	Clause 47.1 section-III_Conditions of Contract	The Independent Engineer’s liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof	We would request to incorporate a clear capping of liabilities up to IE’s fee.	Provisions of RfP document shall prevail.
4	Clause 47.3 section-III_Conditions of Contracts	The Independent Engineer shall be further liable for the consequences resulting from errors and commissions due to negligence or from inadequacy on its part or on the part of its employees or associates or experts to the extent of the fees actually received by the Independent Engineer.	We request to delete this requirement, as Independent Engineer cannot be held liable for any consequential losses.	Provisions of RfP document shall prevail.
5	Clause 50.1 section-III_Conditions of Contracts	The Employer may without prejudice to any other remedy for breach of contract, by written notice of default sent to the Independent Engineer, terminate the contract in whole:	Kindly incorporate the notice period before termination as clause is silent on the time period.	Provisions of RfP document shall prevail.

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		<p>a) if the Independent Engineer fails to deliver any or all of the services within the time period(s) specified in the contract or any extension thereof granted by the Employer in writing.</p> <p>b) if the Independent Engineer fails to perform any other obligation(s) under the contract, or</p> <p>c) if the Independent Engineer in either of the above circumstances, does not cure its failure within a period of 30 days after receipt of the default notice from the Employer.</p>		
6	<p>Clause 53.1.1 section-III_Conditions of Contracts</p>	<p>In the event of any question, dispute or difference arising out of or in connection with this work, whether during the progress of the work after its completion, abandonment or breach of contract, the same shall be referred for arbitration.</p> <p>The arbitration shall be conducted by a sole arbitrator in case the amount of claim is less than Rs. 25 Crore and by three-member arbitral tribunal in case the amount of claim is greater than Rs. 25 Crore.</p> <p><u>Sole Arbitration</u></p> <p>The sole Arbitrator shall be chosen from a panel of empanelled Arbitrators maintained by POWERGRID/CTUIL. The same shall comprise of</p>	<p>We request that for the fair and neutral process, the arbitrator should be chosen as per the provision of the Arbitration Act.</p>	<p>Provisions of RfP document shall prevail.</p>

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		<p>retired Judges and retired Senior executives of PSUs other than POWERGRID/CTUIL. Further, the choice of sole Arbitrator shall be governed by the amount of claim in the following manner:</p> <table border="1" data-bbox="488 485 1155 1027"> <thead> <tr> <th data-bbox="488 485 568 568">Sl no</th> <th data-bbox="568 485 779 568">Claim amount</th> <th data-bbox="779 485 1155 568">Work Experience/Qualifications</th> </tr> </thead> <tbody> <tr> <td data-bbox="488 568 568 831">1</td> <td data-bbox="568 568 779 831">< Rs. 10 Crore</td> <td data-bbox="779 568 1155 831">Sole arbitrator-Retired Senior Executives of PSUs other than POWERGRID or CTUIL/Retired Distt Judges/ High Court Judges.</td> </tr> <tr> <td data-bbox="488 831 568 1027">2</td> <td data-bbox="568 831 779 1027">Rs.10 Crore - Rs.25 Crore</td> <td data-bbox="779 831 1155 1027">Sole arbitrator- Retired High Court/Supreme Court Judges</td> </tr> </tbody> </table> <p>(a) In case of invocation of arbitration by CTUIL, CTUIL shall, within 30 days, send a list of names of 3 arbitrators from its list/database of Arbitrators and the contractor shall within the period of further 30 days select any one person to act as “Sole Arbitrator”, which will be confirmed by CTUIL and matter will be referred to such appointed Arbitrator for further arbitration proceedings.</p>	Sl no	Claim amount	Work Experience/Qualifications	1	< Rs. 10 Crore	Sole arbitrator-Retired Senior Executives of PSUs other than POWERGRID or CTUIL/Retired Distt Judges/ High Court Judges.	2	Rs.10 Crore - Rs.25 Crore	Sole arbitrator- Retired High Court/Supreme Court Judges		
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		<p>(b) In case of invocation of arbitration by the Contractor, the Contractor shall request CTUIL for its database of Arbitrators/ chose from the list of Arbitrators available on POWERGRID’s/CTUIL’s website, and the contractor shall, within 30 days, select any one Arbitrator from the above to act as “Sole Arbitrator”, which will be confirmed by CTUIL within 30 days and matter will be referred to such appointed Arbitrator for further arbitration proceedings.</p> <p>If the parties fail to appoint sole arbitrator within sixty (60) days after receipt of a notice from the other party invoking Arbitration, the appointment of sole arbitrator shall be done by Courts as per the provisions of Indian Arbitration and Conciliation Act, 1996 or any statutory modification thereof.</p> <p><u>Three member arbitral tribunal</u></p> <p>The arbitration shall be conducted by three arbitrators, who are retired High Court/Supreme Court Judges, one each to be nominated by the Contractor and the Employer and the third to be appointed by both the arbitrators in accordance with the Indian Arbitration & conciliation Act. If either of the parties fails to appoint its arbitrator</p>		

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		<p>within sixty (60) days after receipt of a notice from the other party invoking the Arbitration clause, the arbitrator appointed by the party invoking the arbitration clause shall become the sole arbitrator to conduct the arbitration. In case of failure of the two arbitrators appointed by the parties to reach upon a consensus regarding appointment of presiding Arbitrator, within a period of 30 days from the appointment of the arbitrator appointed subsequently, the presiding arbitrator shall be appointed by Courts as per the provisions of Arbitration & conciliation Act.</p>		