

# **GUIDELINES**

## **to Khyber Pakhtunkhwa Hydropower Policy**



**PAKHTUNKHWA ENERGY DEVELOPMENT ORGANIZATION**  
**PEDO**

# **2016**

(Amended April 2017)



**ENERGY & POWER DEPARTMENT**  
**GOVERNMENT OF KHYBER PAKHTUNKHWA**

## ABBREVIATIONS

<b>AJK</b>	Azad Jammu and Kashmir
<b>BOOT</b>	Build-Own-Operate-Transfer
<b>FBR</b>	Federal Board of Revenue
<b>CPP</b>	Capacity Purchase Price
<b>COD</b>	Commercial Operation Date
<b>DISCOs</b>	Distribution Companies
<b>EPP</b>	Energy Purchase Price
<b>FBS</b>	Federal Bureau of Statistics
<b>GoKP</b>	Government of Khyber Pakhtunkhwa
<b>GOP</b>	Government of Pakistan
<b>IA</b>	Implementation Agreement
<b>ICB</b>	International Competitive Bidding
<b>IPP</b>	Independent Power Producer
<b>IRSA</b>	Indus River System Authority
<b>K Electric</b>	K Electric Company Limited
<b>kV</b>	Kilo Volt
<b>kW</b>	Kilo Watt
<b>kWh</b>	Kilo Watt Hour
<b>LOI</b>	Letter of Interest
<b>LOS</b>	Letter of Support
<b>MW</b>	Mega Watt
<b>NBP</b>	National Bank of Pakistan
<b>NEPRA</b>	National Electric Power Regulatory Authority
<b>NTDC</b>	National Transmission and Despatch Company
<b>PAEC</b>	Pakistan Atomic Energy Commission
<b>PEDO</b>	Pakhtunkhwa Energy Development Organization
<b>PEPCO</b>	Pakistan Electric Power Company
<b>PEPA</b>	Pakistan Environmental Protection Agency
<b>PESCO</b>	Peshawar Electric Supply Company
<b>PIDA</b>	Provincial Irrigation and Drainage Authority
<b>PPA</b>	Power Purchase Agreement
<b>PPIB</b>	Private Power and Infrastructure Board
<b>PPC</b>	Private Power Cell
<b>RFP</b>	Request for Proposals
<b>Rs</b>	Pakistan Rupees
<b>SECP</b>	Securities and Exchange Commission of Pakistan
<b>SRO</b>	Statutory Rules and Orders
<b>TESCO</b>	Tribal Area Electric Supply Company
<b>TFC</b>	Term Finance Certificate
<b>US \$</b>	United States Dollar
<b>WAPDA</b>	Water and Power Development Authority
<b>WPI</b>	Wholesale Price Index
<b>WUC</b>	Water Use Charges
<b>WUL</b>	Water Use License

## **INTRODUCTION**

In order to attract new investment in the power sector of Khyber Pakhtunkhwa to overcome the prevailing electricity crisis, the Provincial Government has announced a new Hydro Power Generation Policy 2016 which offers competitive incentives and simplified processing to bridge the demand supply gap in the minimum possible time through generation of affordable electricity for socio-economic uplift of the province and country as a whole.

Pursuant to Clause 19 of Hydro Power Generation Policy 2016 (the “**Policy**”), Department of Energy & Power, Government of Khyber Pakhtunkhwa & Pakhtunkhwa Energy Development Organization (PEDO) have formulated the Guidelines to facilitate the investors to develop power generation projects (IPPs) (the “**Projects**”) on Build, Own, Operate and Transfer (**BOOT**) or other basis as prescribed in the Policy.

### **1. PROJECT DESCRIPTION**

#### **1.1 Scope of Work**

Scope of work for the Project comprises all activities necessary to develop, finance, insure, install new plant and equipment, test, commission, own, operate, maintain and transfer the power generation facility and all activities incidental thereto in accordance with the provisions of the Implementation Agreement (IA) and the Power Purchase Agreement (PPA) and the sale of electricity to the Power Purchaser at the tariff to be determined by NEPRA or Provincial Regulator, as the case may be.

The power plant should essentially comprise all materials, plant & equipment and services required to make the plant operationally safe, complete and environmentally compatible. The arrangement shall be complete in all respects.

#### **1.2 Project Location**

For projects to be implemented through the modes outlined in the Policy, the project location specified in the solicitation documents or proposed otherwise for the raw sites shall be finalized with prior concurrence of the Power Purchaser and in case project location partially falls outside the territorial jurisdiction of KP, then with the concurrence of that concerned Province / AJ&K / GB as the case may be.

### **1.3 Financing for the Project**

Financing for the Project shall be in the form of equity and debt. Debt to Equity ratio for financing of the project should be 80:20 (min) and 70:30 (max). However, if equity is more than 30% of the capital cost, equity in excess of 30% shall be treated as debt. Arrangement of financing for the Project would be the sole and exclusive responsibility of the applicant/sponsor.

## **2. PROCESSING OF HYDROPOWER PROJECTS**

### **2.1 INTERNATIONAL COMPETITIVE BIDDING (ICB) PROJECTS**

For the hydropower projects where feasibility study or detailed engineering design has been carried out and approved, bids will be solicited by PEDO through International Competitive bidding (ICB). Following methodology will be followed for processing of such projects:

#### **2.1.1 Pre-Qualification Process**

Prior to initiating bidding, PEDO may carry out pre-qualification of prospective bidders. Following steps will be followed for pre-qualification;

- a) Advertisement in national and / or international press inviting proposals for pre-qualification.
- b) Interested party / parties (Applicant) will request PEDO in writing for registration and purchase of Prequalification Document (PQD), along with non-refundable fees as prescribed by the PEDO from time to time.
- c) PEDO will register the Applicant for a specific Project and will issue registration letter as well as PQD.
- d) The Applicant will submit a detailed Proposal along with Statement of Qualification (SOQ) as per the PQD.
- e) The PQD will clearly detail the factors to be taken into consideration for qualification of

prospective bidders. The factors for pre-qualification will generally include;

- i. Information about the Applicant / Sponsor(s)
  - ii. Details about the Consortium (if applicable)
  - iii. Consortium Agreement (if applicable)
  - iv. In case of a Consortium, a Lead Sponsor to be appointed through a Power of Attorney and or Board Resolution executed by all other consortium members
  - v. Affidavit(s) on equity commitment and eligibility requirements
  - vi. Previous Power Project Experience
  - vii. Credit rating of the Applicant / Sponsor(s) or bank credit references from at least two banks
  - viii. Net Worth / Financial Statements of the Applicant / Sponsor(S)
  - ix. Any other factor as deemed necessary by PEDO
- f) PQD will provide all information required for pre-qualification, including instructions for preparation and submission of application for pre-qualification, timelines for submission of applications for pre-qualification, criteria / requirements for pre-qualification, list of documentary evidence to be attached in the applications for pre-qualification to demonstrate qualifications and any other relevant information as deemed necessary by PEDO for the purposes of pre-qualification.
- g) PEDO may seek additional / supplemental information, clarifications, data, statements, etc. from any Applicant, if deemed necessary.
- h) Constitution of Evaluation Committee and Grievance Committee by the PEDO Board. The committees may comprise of members from PEDO, Energy & Power Department Khyber Pakhtunkhwa, NEPRA, AEDB, Power Purchaser or any other relevant entity or consultant(s) / expert (s).

- i) The Evaluation Committee terms of reference will include recommendation of evaluation, to the Board of PEDO. In order to carry out professional evaluation, the management of PEDO may engage external / independent consultant(s).
- j) The SOQ will be evaluated based on the criteria provided in the PQD.
- k) After approval by PEDO Board, PEDO will notify each Applicant whether or not it has been pre-qualified and will make available to any person directly involved in the pre-qualification process, upon request, the list of all applicants who have been pre-qualified.
- l) PEDO will communicate to those applicants who have not been pre-qualified, the reasons for not pre-qualifying them.
- m) The prequalified applicants will be given a time period not exceeding six (6) months for the updating of the feasibility studies which may require its financial and technical due diligence on the part of the prequalified applicants at their own risk and cost.

### 2.1.2 **Bidding Process**

Following will be the sequence of bidding process;

- a) Approval of standardized Request for Proposal (RFP) by NEPRA.
- b) Issuance of RFP to Pre-Qualified Bidders or the Applicants. The RFP will also include copies of Feasibility Study or Detailed Engineering Design, Standardized Project Agreements (IA, PPA, WUA, Land Lease Agreement). PEDO may charge certain fee as per actual on account of preparation of such documents.
- c) Pre-Bid Conference may be held for which bidders will be informed well in time; Receipt of bids along with bid processing fee as prescribed by PEDO from time to time and Bank Guarantee (Bid Bond) @ US\$ 1000/MW in favor of PEDO. The bids will remain valid for a period of 120 days from the deadline of receipt of bids. The validity of the Bank Guarantee shall be 180 days from the deadline of bid submission.

- d) Opening of Technical Proposals (Envelope-I) in the presence of Bidders.
- e) Evaluation of Technical Proposals in accordance with the criteria provided in the RFP.
- f) Notification of accepted or responsive Technical Proposals.
- g) Representation(s) by Bidder(s) (if desired) against non-responsiveness or non-acceptance of their Technical Proposals before the Grievances Committee within 15 days from such non-responsiveness or non-acceptance.
- h) Decision of the Grievances Committee within 15 days of receipt of Representation(s) made by Bidder(s).
- i) Return of sealed Envelope-II (Tariff Proposals) of Non Responsive Technical Proposals.
- j) Opening of Tariff Proposals (Envelope-II) of only Responsive Technical Proposals in the presence of Bidders.
- k) Evaluation and Ranking of Tariff Proposals (Envelope-II) in accordance with the criteria provided in the RFP.
- l) Bid Evaluation Report containing recommendations of the evaluation and ranking of the Technical and Financial Proposals shall be submitted to PEDO Board for approval.
- m) Bid Evaluation Report along with complete record will be submitted to NEPRA for approval.
- n) Notification of 1<sup>st</sup> Ranked Bidder by NEPRA in accordance with the NEPRA Competitive Regulations 2014. Within 15 days of notification by NEPRA, the 1st Ranked Bidder will file an application for approval of competitive bidding tariff along with non-refundable application fee and necessary documentation to NEPRA.
- o) NEPRA may grant approval to application within 15 days of NEPRA's admission of the case or date of hearing as the case may be.
- p) NEPRA will intimate its decision for granting approval of the generation tariff to the GOP for notification in official gazette.

- q) Upon Notification of approved tariff in official gazette, the 1st Ranked Bidder will be notified through an LOA as “Successful Bidder” and shall be required to fulfill within [two months from date of LOA], the following conditions for the issuance of LOS/ Tripartite LOS:
- i. Submit Bank Guarantee @ US\$ 5000 / MW acceptable to PEDO/PPIB/AEDB;
  - ii. Submit applicable processing fee as prescribed by PEDO/PPIB/AEDB from time to time;
  - iii. Reimburse audited costs of the feasibility study / detailed engineering design (including project management costs) as determined by the independent auditor/consultant appointed by PEDO to the organization/entity which earlier conducted such study (ies). Moreover, the successful bidder shall also be required to reimburse any such charges incurred by PEDO in relation thereto
  - iv. Incorporate the special purpose vehicle (the “**Project Company**”) with the shareholding of the Successful Bidder and or members of the Consortium Agreement in accordance with the SOQ submitted by it.
  - v. Apply to NEPRA for issuance of generation license.

Upon fulfillment of the conditions prescribed under the LOA, the Project Company will be issued LOS / Tri-partite LOS for the Project as the case may be.

- r) Release of Bid Bond to Successful Bidder.
- s) In case of failure of the Successful Bidder to fulfill any of the aforesaid conditions, its Bid Bond shall be encashed and PEDO may consider the second evaluated bidder as successful bidder and refer to NEPRA for obtaining required approvals in accordance with the NEPRA Competitive Regulations 2014.
- t) The validity of LOS / Tri-partite LOS will be based on size of the Project, however, shall not exceed 18 months.
- u) The Sponsors / Project Company will be required to finalize the Project Agreements (IA, PPA, WUA, Land Lease Agreements), acquire land, appoint EPC contractor, and



achieve Financial Closing within the period specified in the LOS / Tri-partite LOS.

- v) The construction activities will commence after the achievement of Financial Closing by the Sponsor / Project Company in accordance with the provisions of the LOS/Tri-partite LOS and Project Agreements.

The Bank Guarantee shall be encashable in case the Sponsors / Project Company fails to execute the Project Agreements or achieve Financial Closing as per terms & conditions stipulated in the LOS.

## **2.2 SEMI / RAW SITE HYDROPOWER PROJECTS**

### **2.2.1 Semi - Raw Site Projects (identified based on pre-feasibility study or otherwise)**

For the hydropower projects where feasibility study has not been carried out, the following methodology will be followed for processing of such projects:

- a) The proposals will be solicited by PEDO through advertisement in National and or International press
- b) Interested party/parties (Applicant) will request PEDO in writing for registration and purchase of Expression of Interest (EOI)/Qualification Document (QD), along with non-refundable fees as prescribed by the PEDO from time to time.
- c) PEDO will register the Applicant for a specific Project and will issue registration letter as well as EOI/QD.
- d) The Applicant will submit a detailed Proposal along with Statement of Qualification (SOQ) as per the EOI/QD.
- e) The SOQ will be evaluated based on the criteria provided in the EOI/QD. The EOI/QD document will clearly detail the factors to be taken into consideration for qualification of prospective bidders. The factors for pre-qualification will generally include;

- i. Information about the Applicant / Sponsor(s)
  - ii. Details about the Consortium (if applicable)
  - iii. Consortium Agreement (if applicable)
  - iv. In case of a Consortium, a Lead Sponsor to be appointed through a Power of Attorney and or Board Resolution executed by all other consortium members
  - v. Affidavit(s) for equity commitments and eligibility requirements
  - vi. Previous Power Project Experience
  - vii. Credit rating of the Applicant / Sponsor(S) or bank credit references from at least two banks
  - viii. Net Worth / Financial Statements of the Applicant / Sponsor(s)
  - ix. Any other factor as deemed necessary by PEDO
- f) EOI/QD Document will provide all information required for qualification, including instructions for preparation and submission of application for pre-qualification, timelines for submission of applications for qualification, criteria / requirements for qualification, list of documentary evidence to be attached in the applications for qualification to demonstrate qualifications and any other relevant information as deemed necessary by PEDO for the purposes of qualification.
- g) PEDO may seek additional / supplemental information, clarifications, data, statements, etc. from any applicant, if deemed necessary.
- h) Constitution of Evaluation committee and Grievances Committee by PEDO Board. The committees may comprise of members from PEDO, Energy & Power Department Khyber Pakhtunkhwa, NEPRA, AEDB, Power Purchaser or any other relevant entity
- i) The Evaluation Committee terms of reference will include recommendation of evaluation, to the Board of PEDO. In order to carry out professional evaluation, the management of PEDO may engage external / independent consultant(s).
- j) The SOQ will be evaluated based on the criteria provided in the EOI/QD.
- k) PEDO will communicate to those Applicants who have not been qualified, the reasons for not qualifying them.

- l) Upon approval of the PEDO Board, a Notice to Proceed will be issued to the successful Applicant (Sponsor), requesting it to submit a Bank Guarantee @ US\$ 1,000 per MW to PEDO for issuance of LOI. Validity of Bank Guarantee will be three (3) months beyond the expected date for the issuance of LOS / Tri-partite LOS.
- m) Upon acceptance of the Bank Guarantee, LOI will be issued to the Sponsor/Project Company for the conduct of a bankable feasibility study. In this regard, the schedule of activities for the conduct of the feasibility study will be decided and made part of the LOI. In case of encashment of the Bank Guarantee, the LOI will stand cancelled automatically. For a guideline, a term of reference shall be provided by PEDO to be followed by the Sponsor during conduct of the feasibility study. The time period of the LOI shall be in line with the time period provided by the Sponsor at the time of submission of its EOI/QD to PEDO. However, the validity of LOI in any event shall not exceed twenty four (24) months or any lesser period prescribed in the EOI/QD depending on the size and type of the project and the timelines for completion of the feasibility study within twenty four (24) month timeframe or any lesser period prescribed in the EOI, will be mutually agreed between the sponsors and PEDO.
- n) The conduct of feasibility study will be monitored by the Panel of Experts (POE) constituted by PEDO Board. POE shall comprise of qualified professionals from hydropower engineering, finance, law and other related disciplines in private sector, public sector, PEDO or any other organization
- o) In case POE is not satisfied with the progress of work related to feasibility study, a penalty @ 20% of the Bank Guarantee amount shall be imposed and a warning shall be issued. In case of no substantial progress within further period according to the schedule, the LOI shall be liable for cancellation with forfeiture of bank guarantee with the approval of the PEDO Board or any authorized person.
- p) In case the study is not completed within the specified time, and on a written request from the sponsors for extension of LOI, if the POE, is satisfied that the Sponsor's progress during conduct of the feasibility study is reasonable and the feasibility study is likely to be completed shortly, a one-time extension may be granted by PEDO Board

for such time period as recommended by POE. Such extension shall be subject to submission of a bank guarantee in favor of PEDO in double the original amount and valid beyond three (3) months of the expected date of issuance of LOS/ Tripartite LOS.

- q) Upon approval of the feasibility study by POE, the Sponsors shall apply to NEPRA within prescribed time pursuant to the LOI for determination / approval of feasibility level tariff.
- r) The Bank Guarantee will be encashable and LOI liable for cancellation in case the Sponsors fail to:
  - (i) Complete the feasibility study or meet the relevant milestones or standards to the satisfaction of the POE;
  - (ii) Apply to NEPRA for tariff determination within prescribed time under the LOI; or
  - (iii) Obtain LOS/Tri-partite LOS after determination / approval of tariff by NEPRA within the prescribed time under the LOI.

The Sponsors will have no claim for compensation against PEDO, the Provincial Government or any other institution for the cancellation of the Project or the encashment of the Performance Guarantee.

- (s) Upon notification of approved tariff in official gazette, the Sponsor shall be required to fulfill within prescribed period under the LOI, the following conditions for the issuance of LOS/ Tripartite LOS:
  - i. Submit Bank Guarantee @ US\$ 5000 / MW acceptable to PEDO/PPIB/AEDB;
  - ii. Submit applicable processing fee as prescribed by PEDO/PPIB/AEDB from time to time;
  - iii. Incorporate the special purpose vehicle (the “**Project Company**”) with the shareholding of the Sponsor and or members of the Consortium Agreement in

accordance with the SOQ submitted by it.

- iv. Apply to NEPRA for issuance of Generation Licence.
- (t) Upon fulfillment of the Conditions Precedent under the LOI, the Project Company will be issued LOS / Tri-partite LOS for the Project as the case may be and the earlier Bank Guarantee (@ US\$ 1,000 per MW) shall be returned. The validity of LOS/Tri-partite LOS will be based on size of the Project and in any event not exceeding 24 months or any other lesser period prescribed under the EOI/QD.
- (u) The Sponsors / Project Company will be required to finalize the Project Agreements (IA, PPA, WUA, Land Lease Agreements etc.), acquire land, appoint EPC contractor through competitive bidding, file EPC stage tariff petition to NEPRA and achieve Financial Closing within the period of LOS.
- (v) The construction activities will commence after the achievement of Financial Closing by the Sponsor / Project Company in accordance with the provisions of the LOS and Project Agreements.

The Bank Guarantee shall be encashable in case the Sponsors / Project Company fails to execute the Project Agreements or achieve Financial Closing as per terms & conditions stipulated in the LOS.

### **2.2.2 Raw Site Projects (identified by investors/sponsors)**

For the hydropower projects where neither feasibility study nor detailed engineering design has yet been carried out and are identified by investor(s)/sponsor(s) and are not with PEDO or any other public and/or private sector entity, will be registered on first come first serve basis and subsequently awarded for implementation to such investor(s)/sponsor(s), if such investor(s)/sponsor(s) fulfills applicable qualification criteria / procedure laid down for Semi – Raw site projects as described in the section 2.2.1 of these Guidelines. In case the investor(s)/sponsor(s) fails to meet the selection criteria or does not address deficiencies or agrees to relinquish the site or is cancelled by PEDO, the same project site will be subsequently processed as Semi-Raw site.

### **2.3 NON – SOLICITED PROPOSALS (PUBLIC SECTOR ENTITIES / FOREIGN STATE OWNED ENTERPRISES) - SPECIAL PROCEDURE**

For projects falling under Clause 1.5 (10) (vii) of KP Hydro Power Policy 2016, the following procedure shall apply:

- a) The Public Sector Organization or Foreign state owned enterprise (the Applicant) shall submit a preliminary proposal for development of the hydro power projects under the Policy to the PEDO for processing. The preliminary proposal shall fulfill the following requirements:
  - i. Preliminary proposal shall include project parameters, achievement of project timelines, arrangement of financing through equity and debt;
  - ii. Qualification of the Applicant as a Public Sector Organization or foreign state owned enterprise in terms of the Clause 1.5(10)(vii) of the Policy;
- b) The PEDO will evaluate the preliminary proposal and subject to the fulfillment of the aforesaid requirements shall issue a Notice to Proceed (NTP) with a validity of four (4) months from the date of issuance.
- c) Before issuance of LOI, following shall be provided and conditions fulfilled (outlined in NTP as well) for review & approval:
  - i. Submission of detailed technical and financial proposal of the Project as per EOI/QD;
  - ii. Submission of Financial and Technical worth of the Applicant and its consortium partners if applicable as per the EOI/ QD;
  - iii. Undertaking with regards to maintenance of majority shareholding (51%) by the Applicant in the Project for the lock in period;
  - iv. Submission of performance (bank) guarantee as per the Policy;
  - v. Updating of the feasibility studies, if required.
- d) The Evaluation Committee shall carry out evaluation of the proposal and financial and technical worth of the Applicant / consortium and will submit recommendation of evaluation, to the Board of PEDO. In order to carry out professional evaluation, the management of PEDO may engage external / independent consultant(s). Upon successful completion of the aforesaid terms and conditions within the validity of the NTP and having found the proposal and qualification of the Applicant responsive as per the terms of the EOI/QD, PEDO shall, with the prior approval of the Board of PEDO, issue Letter of Intent (LOI) to the Applicant as the Main Sponsor and Initial Shareholder.
- e) The GoKP / PEDO will facilitate fast track implementation of the project(s) under applicable Provincial and/or Federal Power Policies
- f) Projects undertaken in this mode shall strictly adhere to the timelines and there shall be no extensions allowed at various stages of the timeline.

### **3. SMALL HYDROPOWER PROJECT UNDER UPFRONT TARIFF REGIME**

Small hydropower projects under upfront tariff regime are envisaged to be set up on small tributaries of river, canals etc., where the hydrological data may not be available and in case it is available, it is not verifiable, the hydrological risk will be borne by the power producer. In case hydrology is certified by relevant public sector entity, the hydrological risk will be borne by power producer or power purchaser keeping in view the hydrology of the specific project sites in accordance with NEPRA's Upfront Tariff Determination. The power producer is encouraged to select sites that will optimize the size of power plant for maximum generation of electricity during the term of the project. Following process will be adopted for award of projects under Upfront Tariff regime;

- a) NEPRA has announced an Upfront Tariff;
- b) PEDO will invite EOI/QD through advertisement in the press based on Upfront Tariff;
- c) Interested party/parties (Applicant) will request PEDO in writing for registration and purchase of EOI/QD, along with non-refundable fees as prescribed by the PEDO from time to time.
- d) PEDO will register the Applicant for a specific Project and will issue registration letter as well as EOI/QD.
- e) The Applicant will submit a detailed Proposal along with Statement of Qualification (SOQ) as per the EOI/QD.
- f) The EOI will clearly provide details of the factors to be taken into consideration for qualifications and ranking of prospective applicants. The factors for qualification and ranking will generally include;
  - i. Information about the Applicant / Sponsor(s)
  - ii. Details about the Consortium (if applicable)
  - iii. Consortium Agreement (if applicable)

- iv. In case of a Consortium, a Lead Sponsor to be appointed through a Power of Attorney and or the Board Resolution executed by all other Consortium members
  - v. Affidavit(s) on equity commitment and eligibility requirements
  - vi. Previous Power Project Experience
  - vii. Credit Rating of the Applicant / Sponsor(s) or bank credit references from at least two banks
  - viii. Net Worth / financial statements of the Applicant / Sponsor(s)
  - ix. Any other factor as deemed necessary by PEDO
- g) The Evaluation Committee terms of reference will include recommendation of evaluation, to the Board of PEDO. In order to carry out professional evaluation, the management of PEDO may engage external / independent consultant(s).
  - h) The SOQ will be evaluated based on the criteria provided in the EOI/QD.
  - i) PEDO will communicate to those Applicants who have not been qualified, the reasons for not qualifying them.
  - j) The successful Applicant (Sponsor) will be issued Letter of Intent (LOI) to approach NEPRA for acceptance of upfront tariff and thereafter obtain LOS/ Tri-Partite LOS.
  - k) The Sponsor will file an application for acceptance of Upfront Tariff along with non-refundable application fee and necessary information and documentation to NEPRA for tariff approval.
  - l) NEPRA will decide upon the acceptance of Upfront Tariff within 10 days. NEPRA will intimate the accepted Upfront Tariff to GOP for notification in official gazette.
  - m) Upon notification of approved tariff in official gazette, the Sponsor shall be required to fulfill within prescribed period under the LOI, the following conditions for the issuance of LOS/ Tripartite LOS:



- (i) Submit Bank Guarantee @ US\$ 5000 / MW acceptable to PEDO/PPIB/AEDB;
- (ii) Submit applicable processing fee as prescribed by PEDO/PPIB/AEDB from time to time;
- (iii) Incorporate the special purpose vehicle (the “**Project Company**”) with the shareholding of the Sponsor and or members of the Consortium Agreement in accordance with the SOQ submitted by it.
- (iv) Apply to NEPRA for issuance of Generation Licence.

Upon fulfillment of the aforesaid conditions under the LOI, the Project Company will be issued LOS / Tri-partite LOS for the Project as the case may be and the earlier Bank Guarantee (@ US\$ 1,000 per MW) shall be returned. The validity of LOS/Tri-partite LOS will be based on size of the Project and in any event not exceeding 18 months or any other lesser period prescribed under the EOI.

- n) The Sponsors / Project Company will be required to finalize the Project Agreements (IA, PPA, WUA, Land Lease Agreements etc.), acquire land, appoint EPC contractor through competitive bidding, file EPC stage tariff petition to NEPRA and achieve Financial Closing within the period of LOS.
- o) The construction activities will commence after the achievement of Financial Closing by the Sponsor / Project Company in accordance with the provisions of the LOS and Project Agreements.
- p) The Bank Guarantee shall be encashable in case the Sponsors / Project Company fails to execute the Project Agreements or achieve Financial Closing as per terms & conditions stipulated in the LOS.

### **CAPTIVE POWER PROJECTS**

Proposals from private investors will be considered on first come first serve basis for setting up of Captive Power Projects. Following procedure will be adopted for award and implementation of such projects:

- a) Non-refundable registration fee of Rs. 10,000/-.
- b) Evidence for the availability of the Site.
- c) License or documentary evidence for the dedicated Industrial Unit for which the CPP is being set up
- d) Project basic parameters (hydrology, head, discharge, energy generation)
- e) Project proposal with the achievement of key milestones
- f) NOCs from relevant department (if applicable) etc.
- g) The Evaluation Committee terms of reference will include recommendation of evaluation, to the Board of PEDO. In order to carry out professional evaluation, the management of PEDO may engage external / independent consultant(s).
- h) The PEDO will issue the LOI for a period not exceeding 24 Months for the setting up of the captive power project identifying the milestones for the completion. The sponsor will deliver a Bank Guarantee (@ Rs.500 per Kw) to PEDO for securing its obligations till the completion of the project. Prior to the construction start of the project, a lease agreement (@ Rs. 1500/kW) for a period of 30 years will be executed by the sponsor / project company with PEDO. The lease amount will be escalated @ 10% after every 5 years. In the event the project is successfully completed, the Bank Guarantee will be released and if the sponsor fails to implement the project in accordance with the proposal of the Project, PEDO shall encash the Bank Guarantee and cancel the project. The sponsors may be given extension in the term of the LOI for the reasons beyond the reasonable control
- i) The Captive Power Project may sell surplus power to the power grid subject to the fulfillment of the terms and conditions of such sale by the NEPRA and PEDO prescribed in this regard.

#### **4. PROJECTS AWARDED / RECOMMENDED BY PEDO / GoKP TO PPIB/AEDB**

Where a project(s) is awarded by PEDO / GoKP, PPIB/AEDB upon recommendations/request of PEDO / GoKP will issue Tripartite LOS to the Sponsors, where Power Purchaser is federal entity, transmission and distribution network of federal entity is used, tariff is determined or approved by NEPRA and GOP guarantee is required.

The Tripartite LOS will be processed upon receipt of the following:-

**4.1 From Province/PEDO**

- a) Project capacity, location,
- b) Detail about sponsors (Main and other sponsors (if any) contact details, (address, telephone/fax number, email etc.) and details of authorized signatories
- c) Approval of Feasibility Study along with complete set of Feasibility Study (if applicable)
- d) Recommendation letter from PEDO
- e) Copy of LOI/LOA issued by PEDO

**4.2 From Sponsor**

- f) NOC from Power Purchaser for evacuation of power from the identified site
- g) Tariff Determination from National Electric Power Regulatory Authority (NEPRA) on the terms and conditions set out therein as amended from time to time
- h) Application to the NEPRA for the issuance of a Generation License or Generation License;
- i) A non-refundable processing fee as prescribed by PPIB/AEDB from time to time in consultation with PEDO
- j) Delivered an irrevocable, unconditional, on demand bank guarantee, on terms acceptable to PPIB, in the amount @ USD5000/MW (gross capacity) in favour of PPIB/AEDB (Beneficiary) for and on behalf of PEDO and PPIB/AEDB as joint beneficiaries acting through Managing Director/CEO PPIB/AEDB as the case may be. The validity of Bank Guarantee shall be three months beyond the Financial Closing Date.

## **5. DESIGNATED PROJECTS THAT ARE COVERED UNDER BILATERAL AGREEMENTS BETWEEN PEDO / GoKP / GOP AND FOREIGN GOVERNMENTS**

Where an obligation or commitment of the PEDO / GoKP / GOP arises out of an international treaty or an agreement with a State or States, such obligation or commitment will override the modes for award and processing of the project(s) under these Guidelines

## **6. INTERPRETATION OF TERMS**

Whenever and wherever required pursuant to the Guidelines:

The Bank Guarantee, should be issued by a scheduled bank operating in Pakistan in a form and manner acceptable to PEDO/PPIB/AEDB with credit rating of 'A' or higher. The Bank Guarantee will be accepted in US\$ and may be payable in equivalent Pak Rupees at prevailing exchange rate at the date of encashment. The Bank Guarantee shall be encashable in accordance with terms of LOS / Tri-partite LOS.

The Processing Fee may be payable in equivalent Pakistan Rupees.

The extension should be reasonable keeping in view the size of the project, site conditions and any other project specific factors or reasons beyond the reasonable control of the sponsors.

Except otherwise provided in these Guidelines, processing of any particular project under the Policy and these Guidelines will be in accordance with time schedule provided in the respective PQD / QD / EOI document, RFP, LOA, LOI or LOS as the case may be.

The EOI/QD may include and mean to be Prequalification Document (PQD)

## **7. FEASIBILITY STUDY**

The GoKP, PEDO or GOP will not guarantee the content or conclusions of the feasibility study(ies) already carried out. The successful sponsor will have the right, at its own, to examine, evaluate and form its own conclusions on any or all aspects of the feasibility study, and carry out any additional studies and investigations, as part of its due diligence/ up-gradation.

## **8. MECHANISM FOR CHANGE IN SHAREHOLDING DURING LOCK-IN PERIOD**

Since the sponsors are required to maintain shareholding in the project company during the lock-in period as per the terms of the LOS / Tri-partite LOS and the Policy in accordance with the SOQ, RFP or EOI on basis of which they have been awarded project, any change in such shareholding shall only be allowed upon provision/fulfillment of following to the satisfaction of PEDO:

- a. The Project Company's /Sponsor's request for substitution of shareholding should specify cogent reasons;
- b. Outgoing sponsor shall be required to submit request for withdrawal from the project along with duly executed deed of release in relation to any claims against the GOKP or its entities, cancellation /revocation of legal instruments issued in favor of the Project Company or the main/other sponsor in relation to the proposal or the project with effect from the date of withdrawal;
- c. The proposed new sponsor shall be required to submit deed of accession to the shareholding and in relation to (a) proposal submitted by the main/other sponsor , (b) the Bank Guarantee submitted to PEDO/PPIB and to the terms and conditions of the LOS/ Tripartite LOS issued pursuant thereto;
- d. All documents to be provided by outgoing sponsor(s) or proposed new sponsor(s) are required to be duly executed and authenticated as per applicable laws of Pakistan and if such documents include foreign documents/ instruments then such foreign documents/instruments in accordance with mechanism provided in these Guidelines;
- e. As the project is to be awarded based on evaluation of technical and financial strength of the sponsor in accordance with the criteria laid down in RFP/EOI/PQD, accordingly, such change shall be subject to evaluation of prescribed technical and financial strength of the proposed new sponsor viz-a viz sponsor(s);
- f. If such request in change of shareholders is approved by PEDO, documentary evidence substantiating such change of shareholding in the Project Company shall be required; and
- g. The change of shareholding shall be entirely at the discretion of the PEDO.

The shareholding of the Project Company or of the successful Applicant will not be allowed to change in case of the award of the Project through the Bidding Process.

#### **9. FOREIGN INSTRUMENTS**

Documents / instruments including board resolutions, agreements, power of attorneys, letter of authorizations, company incorporation certificates and relevant documents executed outside the territorial jurisdiction of Pakistan and required to be submitted along with bids, proposals, SOQ, etc. shall only be relied upon/considered if they are (a) notarized by notary public in the country where such document/ instrument has been executed (b) attested / endorsed by the Pakistani Embassy / High Commission / Consulate in such country and (c) attested by/ registered with the Foreign Office in Pakistan.

#### **10. FEE STRUCTURE**

Fees are to be paid by Sponsors or the project companies, as the case may be, in US Dollars (or equivalent Pak. Rs. using for conversion, the inter-bank rate prevailing at the last working day of the preceding month) to PEDO. All fees are subject to revision from time to time.

<b>S. No</b>	<b>Description</b>	<b>Fee US\$</b>	<b>Remarks</b>
(a)	Registration	100	PEDO will provide copy of power policy upon registration
(b)	Purchase of Prequalification Documents / QDs / EOIs for sites with potential of :		
	i. Up to 1 MW	Nil	
	ii. Above 1MW upto 100 MW	1,500	
	iii. 100.1 MW & Above	3,000	

(c)	<p>Bidding &amp; Evaluation:</p> <p>(i) Purchase of RFP documents 1,500</p> <p>(ii) Evaluation Fee</p> <p>&lt;= 0.5 MW Nil</p> <p>&gt; 0.5MW &lt;= 1 MW US\$1,000</p> <p>&gt; 1 MW &lt;= 25 MW US\$ 2,000</p> <p>&gt; 25 MW &lt;= 100 MW US\$ 5,000</p> <p>&gt; 100 MW &lt;= 200 MW US\$ 10,000</p> <p>&gt; 200 MW US\$ 15,000</p>		<p>The RFP by pre-qualified bidders shall also include the feasibility study and relevant documents (i.e. IA, PPA, WUL etc),</p>
(d)	<p>Legal / Consultant fee</p>		<p>To be paid by Sponsors for negotiations or review of other legal / project matters on the basis of actual expenses plus 20% as ancillary charges. Suitable cap to this expense, however, will be suggested in the QD / EOI / PQD / RFP</p>


## 11. SAVINGS

- (i) These Guidelines are based on the NEPRA’s Law, Rules and Regulations as in effect on the date hereof and in case of any inconsistency between these Guidelines and the NEPRA’s Law, Rules or Regulations, latter shall prevail
- (ii) These Guidelines shall be subject to the NEPRA’s Law, Rules and Regulations, as modified, supplemented and amended from time to time.



**PAKHTUNKHWA ENERGY DEVELOPMENT ORGANIZATION**  
GOVERNMENT OF KHYBER PAKHTUNKHWA

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