



**Government of Pakistan
Ministry of Privatisation
(Privatisation Commission)**

REQUEST FOR PROPOSAL (RFP)

HIRING OF FINANCIAL ADVISER FOR

PRIVATE SECTOR PARTICIPATION IN THREE (03) DISTRIBUTION COMPANIES
(DISCOs) NAMELY FAISALABAD ELECTRIC SUPPLY COMPANY, GUJRANWALA
ELECTRIC POWER COMPANY AND ISLAMABAD ELECTRIC SUPPLY COMPANY
THROUGH PRIVATISATION

I. Letter of Invitation

Islamabad, the _____

Dear Sir /Madam,

This Request for Proposals (RFP) has been addressed to the Interested Party(ies) (IP).

- 1) The IPs shall be selected as Financial Adviser under *Quality & Cost Based Selection* (QCBS) procedure as described in this RFP, in accordance with the provisions of Privatisation Commission (PC) (Hiring of Financial Advisers) Regulations, 2018.
- 2) The RFP includes the following documents:
 - I. Letter of Invitation
 - II. Instructions to Financial Advisers and Data Sheet
 - III. Technical Proposal- Standard Forms
 - IV. Financial Proposal - Standard Forms

Appendices

- A. Terms of Reference
 - B. Draft Financial Advisory Services Agreement (FASA)
- 3) IPs are required to submit their Technical & Financial Proposals along with mandatory non-refundable processing fee of **USD 1,000** (United States Dollars One Thousand or Equivalent PKR at exchange rate prevailing 3 days prior to submission) by banker's cheque or wire transfer to following bank account:

For payment in US\$, please use the following account:

By wire transfer to:

Bank: National Bank of Pakistan

Account Title: Privatisation Commission

Account number: PK22NBPA0341003035237661

Beneficiary Bank: National Bank of Pakistan, Main Branch (0341) G-6 Islamabad

Swift code: NBPAPKKA02I

CORRESPONDENT BANK: JP MORGAN CHASE NEWYORK

Swift code: CHASUS33

For payment in PKR, please use the following account:

Bank: National Bank of Pakistan

Title: Privatisation Commission Interest Bearing Account

Account number: 3035236082

IBAN: PK72NBPA0341003035236082

Branch Code: 0341 - Main Branch, Islamabad

Beneficiary's Name: Privatisation Commission, Islamabad.

Yours sincerely,

Privatisation Commission

4th Floor, Kohsar Block, New Pak Secretariat,
Constitution Avenue, Islamabad.

Phone No. +92-51-9204593

Email: dgitpu@privatisation.gov.pk

II: Instructions to Financial Adviser / Interested Parties

[Note: Instructions to Financial Adviser / Interested Parties shall not be modified.]

Definitions

- (a) “Client” means Privatisation Commission (the “PC”) established under Section (3) of Privatisation Commission Ordinance, 2000;
- (b) “Data Sheet” means such part of the instructions to IPs used to reflect specific conditions of the transaction;
- (c) “Evaluation Committee” means a committee constituted by the Chairman, comprising not less than three persons with the purpose of evaluating the technical and financial proposals submitted by the interested parties;
- (d) “Consortium” means a group of body corporates or firms that have agreed to be jointly and severally responsible for the obligations under the FASA;
- (e) “Consortium Lead” means a body corporate or firm, which is member of a Consortium and has been nominated by other members of the Consortium as Consortium Lead. A Consortium can only have one (01) Consortium Lead;
- (f) “FA” means an external FA hired by the Client to advise on a major privatisation as defined in the Privatisation Commission (Hiring of Financial Advisers) Regulations, 2018;
- (g) “Federal Government” means the Government of Pakistan;
- (h) “Financial Advisory Services Agreement” or “FASA” means the Agreement to be signed between the Client and the Financial Adviser for the Private Sector Participation in DISCOs through privatisation (Transaction);
- (i) “Interested Party” or “IP” means a body corporate or firm or Consortium which has submitted the technical proposal and the financial proposal and paid the fee, if any;
- (j) “Proposals” means both the technical proposal and the financial proposals submitted to Privatisation Commission;
- (k) “Sub-Contractor” means an entity to whom the IP intends to subcontract part of the services while remaining responsible to the Client for the performance under FASA;
- (l) “Terms of Reference” or “TOR” means the Terms of Reference attached with this RFP which explains the objectives, scope of work, activities, tasks to be performed and responsibilities of the Financial Adviser;
- (m) “Third Party” means any person or entity other than the Sub-Contractor engaged by the IP/ Financial Adviser for performance of Services under the FASA;

(n) “Working Day” means an official working day, in which official business is conducted by the Client.

- 1. Introduction**
- 1.1 The IPs are invited to submit the technical proposal and financial proposal for the performance of services under the Terms of Reference (TORs). The proposals should be made in separate marked and sealed envelopes both for technical and financial proposals.
 - 1.2 IPs should familiarize themselves with assignment conditions and take them into account in preparing their proposals. IPs may contact the Client to obtain any clarifications till seven (07) days prior to the last date for submission of proposals.
 - 1.3 IPs shall bear all costs associated with the preparation and submission of their proposals and FASA negotiation. The Client is not bound to accept any proposal and reserves the right to annul the selection process at any time prior to award of FASA, without thereby incurring any liability to an IP.

Conflict of Interest

- 1.4 The Client requires that IP to provide professional, objective, and impartial advice and at all times hold the Client’s interest’s paramount, strictly avoid conflicts with other assignments or their own corporate interests.

- 1.5 IP has an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the Client, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the IP.

Fraud and Corruption

- 1.6 The Client requires IPs participating in its assignments to adhere to the highest ethical standards, both during the selection process and throughout the execution of FASA. In pursuance of this policy, the Client:

- (a) defines, for the purpose of this paragraph, the terms set forth below as follows:

- “corrupt and fraudulent practices” includes the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official or the supplier or contractor in the procurement process or in contract execution to the detriment of the Client; or misrepresentation of facts in order to influence a procurement process or the execution of a contract, collusive practices among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Client of the benefits of free and open competition and any request for, or solicitation of anything of value by any public official in the course of the exercise of his duty;

- (c) will reject a proposal for award if it determines that the IP recommended for award has, directly or through an agent, engaged in “corrupt and fraudulent practices” in competing for FASA; and
 - (d) will sanction an IP, including declaring the IP ineligible, either indefinitely or for a stated period of time, to be awarded FASA if at any time it determines that the IP has, directly or through an agent, engaged in “corrupt and fraudulent practices” in competing for, or in executing FASA.
- 1.7 IP and its Sub-Contractors, if any, are not under a declaration of ineligibility for corrupt and fraudulent practices issued by the Client under paragraph 1.6.
- Proposal Validity** 1.8 The Data Sheet indicates how long IPs’ proposals must remain valid after the submission date. During this period, IP shall maintain the availability of professional staff nominated in the technical proposal. Client may request the IP to extend the validity period of its proposals. IP who agrees to such extension shall confirm that it will maintain the availability of the professional staff nominated in the proposal, or in its confirmation of extension of validity of the proposal, IP could submit new staff in replacement acceptable to the Client.
- 2. Clarification of RFP Documents** 2.1 IP may request a clarification of any part of the RFP documents up to the number of days indicated in the Data Sheet before the proposal submission date. Any request for clarification must be sent in writing, or by standard electronic means to the Client’s address indicated in the Data Sheet.
- 2.2 At any time before the submission of proposals, the Client may amend the RFP by issuing/publishing an addendum in writing. To give IPs reasonable time in which to take an amendment into account in their proposals, the Client may, if the amendment is substantial, extend the deadline for the submission of proposals. If an IP has submitted its proposals / bid before the amendment of RFP, it is entitled to the return of unopened proposals from the Client before the last date fixed for the submission of proposals. An IP is not entitled to the return of proposal if no amendment in the RFP is made after the submission of the proposal.
- 3. Preparation of Proposals** 3.1 The proposal, as well as all related correspondence exchanged by the IP and the Client, shall be written in the language specified in the Data Sheet.
- 3.2 In preparing their proposals, IPs are expected to examine in detail the documents comprising the RFP. Material deficiencies

in providing the information requested or making a proposal conditional may result in rejection of the proposal.

Technical Proposal Format and Content

3.3 The technical proposal shall provide the information indicated in the following paragraphs from (a) to (d) using the attached Standard Forms. A page is considered to be one printed side of A4 or letter size paper.

- (a) A brief description of the IP's organization and an outline of recent experience on assignments of a similar nature is required in Form TECH-2.
- (b) A description of the approach, methodology and work plan for performing the assignment covering the following subjects: technical approach and methodology, work plan, and organization with profile of key professional staff. Guidance on the content of this section of the technical proposals is provided under Form TECH-3.
- (c) The list of the proposed key personnel by area of expertise (Form TECH-4).
- (d) CVs of the key personnel signed by the staff themselves or by the authorized representative of the professional staff (Form TECH-5).

Taxes

3.4 The FA will be subject to all applicable taxes on amounts payable by the Client under FASA. IPs shall submit proposals inclusive of all applicable taxes.

4. Submission, Receipt, and Opening of Proposals

4.1 The original proposal (technical and financial proposals) shall contain no interlineations or overwriting. Submission letters for both technical and financial proposals should be in the format of the attached Forms.

4.2 An authorized representative of the party shall initial all pages of the original Technical and Financial proposals. The authorization shall be in the form of a written power of attorney accompanying the proposal or in any other form demonstrating that the representative has been duly authorized to sign. The signed technical and financial proposals shall be marked "ORIGINAL".

4.3 The technical proposal shall be marked "ORIGINAL" or "COPY" as appropriate. The proposals shall be sent to the addresses referred to in paragraph. 4.5 and in the number of copies indicated in the Data Sheet. All required copies of the technical proposal are to be made from the original. If there are discrepancies between the original and the copies of the technical proposal, the original shall prevail. [electronic submission of proposals/ copies may be considered with

password protection. Separate dates / time will be given for sharing of password.]

4.4 The original and all copies of the technical proposal shall be placed in a sealed envelope clearly marked “TECHNICAL PROPOSAL” followed by the name of the assignment. The original financial proposal shall also be placed in a sealed envelope clearly marked “FINANCIAL PROPOSAL” followed by the name of the assignment. The envelope(s) containing the technical and financial proposals shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address and title of the Assignment, clearly marked “**DO NOT OPEN, EXCEPT IN PRESENCE OF THE OFFICIAL APPOINTED, BEFORE SUBMISSION DEADLINE**”. The Client shall not be responsible for misplacement, losing or premature opening if the outer envelope is not sealed and marked as stipulated. Any violation of these instructions may lead to rejection of the proposal.

4.5 The proposals must be sent to the address indicated in the Data Sheet and received by the Client no later than the time and the date indicated in the Data Sheet, or any extension to this date in accordance with paragraph. 2.2. Any proposal received by the Client after the deadline for submission shall be returned unopened.

4.6 The Client will open the technical proposals on the date and time mentioned in Data Sheet after the deadline ends for their submission, in the actual or virtual presence of representatives of bidders, if opt to be present.

5. Proposal Evaluation

5.1 From the time, the technical proposals are opened to the time the financial proposals are opened, the IPs should not contact the Client on any matter related to its technical or financial proposals. Any effort by an IP to influence the Client in the examination, evaluation, ranking of proposals, and recommendation for award of FASA may result in the disqualification of the IP and rejection of its proposals.

Evaluation of Proposals

5.2 The evaluation committee shall evaluate the proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, sub-criteria, and point system specified in the Data Sheet. Each responsive proposal will be given a technical score (St). A proposal shall be rejected at this stage if it does not respond to important aspects of the RFP, and particularly the Evaluation Criteria and Terms of References (TORs) or if it fails to achieve the minimum technical score indicated in the Data Sheet. The evaluation committee may require the IPs to provide clarifications and/or make power point presentation for the technical proposal.

- 5.3 After the technical evaluation is completed, the Client shall notify those parties / IPs whose proposals are considered non-responsive to the RFP, Evaluation Criteria and TORs or do not meet the minimum qualifying technical score, that their financial proposals will be returned unopened after completing the selection process and signing of FASA. The Client shall simultaneously notify in writing those parties that have achieved the minimum qualifying technical score and inform them of the date, time and place for the opening of the financial proposals. The party's attendance at the opening of the financial proposals is optional and is at the party's choice.
- 5.4 The financial proposals shall be opened by the Client in the actual or virtual presence of the representatives (who opt to be present) of those whose proposals have passed the minimum qualifying technical score. At the opening, the names of the parties, and the overall technical scores, including the breakdown of criterion, shall be read aloud. The financial proposals will then be inspected to confirm that they have remained sealed and unopened. These financial proposals shall then be opened, and the financial bid shall be read aloud and recorded. In case of electronic submissions of financial proposals, the IPs shall share the password electronically at the time of opening of their respective financial proposals.
- 6. Negotiations & Award of Contract** 6.1 The negotiations with the top ranked IP shall be limited to the issues related to milestones and phases, deliverables, timelines, contract duration and procedures for disbursements. The invited top-ranked IP shall, as a pre-requisite for attendance at the negotiations, confirm availability of all professional staff or seek their replacement under paragraph 6.2. Failure in satisfying such requirements within the time fixed by the Client may entitle the Client to initiate negotiations with the next-ranked IP. Representatives conducting negotiations on behalf of the qualified IP must have written authority to negotiate and conclude FASA.
- Availability of Professional staff** 6.2 Having selected the FA on the basis of, among other things, an evaluation of proposed professional staff, the Client expects to negotiate FASA on the basis of the professional staff named in the technical proposal. Before FASA negotiations, the Client will require assurances that the professional staff will be actually available. The Client will not consider substitutions during FASA negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable. The Client may consider substitution of any member of professional staff only based on the IP's written request and due to circumstances outside the reasonable control of the IP. In such case, the IP shall provide an equally qualified and experienced replacement acceptable to the Client.

- Association of a Sub-Contractor** 6.3 If an IP considers that it may enhance its expertise for the assignment by associating with any party as Sub-Contractor, it may do so by associating any Sub-Contractor in the proposal.
- Third Party** 6.4 An IP may make provision in the out-of-pocket expenses for engagement of a Third Party necessary or likely to be necessary for the transaction. The payment to the Third Party(ies) shall only be made from out-of-pocket expenses by the Financial Adviser.
- Only One Proposal** 6.5 The IP (including individual members of any consortium) shall submit only one proposal. If a party including any member of IP or Sub-Contractor submits or participates in more than one proposal, all such proposals shall be disqualified and rejected.
- Conclusion of the negotiations** 6.6 After negotiations under paragraph 6.1, the Client and the FA shall initial (actual or electronic) the FASA. If negotiations with top ranked IP fail, the Client will invite the IP whose proposals received the second highest score for negotiations under paragraph 6.1.
- 7. Award of FASA**
- 7.1 The Client shall award FASA to the selected IP and promptly notify all others who have submitted proposals.
- 7.2 The FA is expected to commence the assignment on the date and at the location specified in the Data Sheet.
- 7.3 The Transaction shall be implemented in accordance with the TORs and continuation of transaction advisory services shall be subject to satisfactory performance of the FA as determined by the Client.

Data Sheet

Paragraph Reference	
1.8	Proposals must remain valid for 120 days after the last submission date.
2.1	<p>Clarifications may be requested not later than seven <u>(07) Working Days</u> prior to the last date of submission of proposals.</p> <p>The contact information for requesting clarifications is on the following official email or in writing to: Email: dgitpu@privatisation.gov.pk</p> <p>Director General (I&T/P&U) Privatisation Commission 4th Floor, Kohsar Block, New Pak Secretariat, Constitution Avenue, Islamabad, Pakistan.</p>
3.1	Proposals shall be submitted in the <u>English language</u> .
4.3	IP must submit the original and password protected soft copies of the Technical and Financial Proposals. In case of electronic submission(s), passwords of only technical proposals file to be shared at the time of opening of Technical Proposals.
4.5	<p>The Proposal submission address is:</p> <p>Director General (I&T/P&U) Privatisation Commission 4th Floor, Kohsar Block, New Pak Secretariat, Constitution Avenue, Islamabad, Pakistan. Telephone: +92 (51) 9204593 Email: dgitpu@privatisation.gov.pk</p> <p>Proposals must be submitted not later than 16th September, 2024 till 1500 hours Pakistan Standard Time (PKT).</p>
4.6	The Client will open the technical proposals on the last date of submission at 1600 hours PKT .
5.2	<p>Pursuant to Regulation of PC's Hiring of FA Regulation 2018, the technical scores for the evaluation of the technical proposals will be as under.</p> <p>The Financial Adviser is required to include a multidisciplinary team of experts, organized as a company with subcontracted experts, or a consortium</p>

of companies with a single consortium lead member and if necessary subcontracted additional experts.

S. No.	Evaluation criteria	Weightage
1	2	3
(a)	<p>Specific firm or Consortium experience related to the assignment</p> <p>1. Global Ranking of Consortium Lead Consortium Lead ranking in any of internationally recognised league tables in any year since 1st January 2021 <i>(complete report highlighting the rank of the Consortium Lead in respective league table(s) to be submitted with proposals)</i> (10 marks) <u>Marking scheme for above:</u></p> <ul style="list-style-type: none"> • Ranked amongst Top 20 – 10 marks • Ranked amongst 21 - 40 – 07 marks • Ranked amongst 41 - 60 – 04 mark • Any rank lower than 60 – 00 marks <p>2. International Experience in Transaction Advisory Services of Consortium Lead as a Lead Advisory Firm in electricity distribution companies / power sector for M&A / privatisation / corporate restructuring / tariff advisory, etc., in at least two countries. (12 marks)</p> <p>(i) Demonstrated overall experience of successfully completing transactions in at least two countries of similar nature in electricity distribution companies / power sector as a Consortium Lead, since 1st January 2014.</p> <p>(ii) Value of each completed assignment since 1st January 2014.</p> <p>(iii) Countries / region of assignments.</p> <p>(iv) Specific experience related to power sector. (12 marks) <u>Marking scheme for above criteria:</u> <i>05 or more completed transactions in at least two countries – 12 marks</i> <i>03-04 completed transactions in at least two countries – 08 marks</i> <i>02 completed transactions in at least two countries – 04 marks</i> <i>01 or less completed transaction – 00 marks</i></p>	30%

	<p><i>(Evidence of completed transactions must be submitted)</i></p> <p>3. Experience of Consortium Members in successfully completing a mandate within a transaction for M&A / privatisation / corporate restructuring / tariff advisory in electric power utilities / distribution, in any capacity, since 01st January 2014 years (08 marks)</p> <p>(i) Number of mandates completed (ii) Value of each completed mandate (iii) Country / region of mandate</p> <p><i>(Note: In case the proposal is not been submitted by a Consortium, the experience of IP will be considered against this criteria).</i></p> <p><u>Marking scheme for above criteria:</u> 04 or more completed mandates– 08 marks 02-03 completed mandates – 05 marks 01 completed mandates – 02 marks Nil completed mandate – 00 marks</p> <p><i>(Note:</i> 1) <i>Evidence of work experience and completed transactions of similar nature must be submitted</i> 2) <i>In case of more than one firm in the Consortium other than the lead, an average score of all the firms, except the lead firm, will be calculated for scoring)</i></p>	
	<p>(b) Competence of Team</p> <p>(i) Name, qualification & relevant experience of the Lead Advisory Team Leader / Project Director.</p> <p>(ii) Names, qualifications & relevant experiences of key personnel of the Financial Advisor / Lead Advisery Firm for the assignment.</p> <p>(iii) Names, qualifications & relevant experiences of key personnel of each member firm of the consortium (other than lead) / Sub-Contractor firm(s) for the assignment / transaction.</p> <p>(iv) Structure & composition of the consortium and division of responsibilities.</p> <p>a) FA Project Lead Team – (10 marks)</p> <p>Minimum experience of Ten (10) years for working in / with Electricity Distribution dealing with the matters associated with Power industry, relevant Legal, Policy and Regulatory Framework</p>	<p>30%</p>

	<p>i) Nominated Project Director (05 marks)</p> <p><u>Marking scheme for Project Director:</u></p> <ul style="list-style-type: none"> • 3 or more similar mandates completed – 05 marks • 1-2 similar mandates completed – 03 marks • NIL similar mandates completed – 00 marks <p>ii. Designated Core Transaction Team Profile (05 marks)</p> <p>b) Law Firm (05 marks) Profile and experience of law firm having proven expertise in handling transactions involving M&A, Privatisation, Corporate Restructuring, Power Sector Regulatory, Legal and Corporate Affairs in power sector / electricity distribution.</p> <p>c) Accountancy and Tax Firm (04 marks) Must be a registered Category A (as per State Bank of Pakistan’s List) Chartered Accountant Firm with latest satisfactory QCR ratings. (Note: In case IP is providing these services itself, then IP will be evaluated against this criteria.) <u>Marking scheme for above:</u></p> <ul style="list-style-type: none"> • 06 or more similar mandates completed – 04 marks • 03-05 similar mandates completed – 02 marks • 01-02 similar mandates completed – 01 mark • NIL similar mandates completed – 00 marks <p>d) Technical Team (08 Marks) Proven experience of IP / Sub-Contractor in rendering technical services including Technical Due Diligence relating to distribution network(s) and commercial retail of electricity since 01st January 2017. (Note: In case IP is providing these services itself, then IP will be evaluated against this criteria.) <u>Marking scheme for above:</u></p> <ul style="list-style-type: none"> • 4 or more similar mandates completed – 08 marks • 2-3 similar mandates completed – 05 marks • 1 similar mandate completed – 03 marks • NIL similar mandates completed – 00 marks <p>e) HR Firm (03 marks) Proven experience of IP / Sub-Contractor in labor, HR and employees related affairs in transactions of similar nature.</p>	
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	<p><i>(Note: In case IP is providing these services itself, then IP will be evaluated against this criteria.)</i></p> <p><i>Note: (Evidence of relevant experience is to provide against each of the above criteria)</i></p>	
<p>(c)</p>	<p>Work plan and methodology</p> <p>Understanding of the GOP's objectives for private sector participation in DISCOs.</p> <p>International work experience dealing with privatisation models in DISCOs.</p> <p>Major activities, key challenges & timelines to complete the transaction.</p> <p>Technical approach to successfully complete the transaction.</p> <p>Acquaintance with legal & regulatory regime / framework in which DISCOs are operating.</p> <p>Spell out a robust marketing strategy, for engagement and developing investor appetite, to be implemented for successful completion of transaction.</p> <p>Work plan and methodology (25 Marks)</p> <p>a) Understanding of the sector, transaction, its execution strategy and Work Plan for the Transaction. The Work Plan and methodology, amongst others, must cover following areas: - <i>(IP is also required to submit mapping of activities along with its detailed proposal)</i> (12 Marks)</p> <ul style="list-style-type: none"> (i) Envisaged transaction structure options. (ii) Proposed strategy for completion of transaction within the indicative timelines (iii) Proposed approach towards comprehensive due diligence of DISCOs in shortest possible time (iv) Strategy to handle HR and employee related issues (v) Envisaged practical aspects for successful completion of Privatisation transaction for DISCOs 	<p>25%</p>

	<p>b) Comparative analysis of the international experience in similar transactions and recommendation to successfully complete the Transaction; and address any post privatisation risk / issues, including Conceptualization of anticipated performance monitoring framework post privatisation, based on KPIs for privatization contracts with reference to international experience (08 Marks)</p> <p>c) Identification of prospective investor(s) and strategy for marketing the transactions, etc. (05 Marks)</p> <p><i>Note: Marks will be distributed on clarity of methodology, alignment of the plan with indicative timelines, relevance and nexus to TORs; realistic and implementable work plan; all the above-mentioned points must be clearly covered and identified in the technical proposal at FORM TECH-3.</i></p>	
(d)	<p>Effectiveness of presentation</p> <p>Understanding of assignment.</p> <p>Acquaintance with legal & regulatory regime / framework.</p> <p>Key potential issues / challenges.</p> <p>Identification of potential investor base (domestic & international).</p> <p>Effectiveness of proposed communications strategy.</p> <p>Indicative plan for the Road shows / destinations to promote investment climate for foreign and domestic investors in Pakistan.</p> <p>Plan with Timelines* for completing the transactions in shortest possible time. IPs to submit the plan based on scenario that the transactions of all Three DISCOs are to be carried out simultaneously, however, PC / GOP reserve the right to carry out the transactions sequentially or simultaneously.</p> <p><u><i>Presentations will be assessed based on better comprehension and explanation of the assignment, in addition to strong acquaintance with applicable financial, tax, technical, HR & employee relations, engagement with utility staff, Tariff, legal and regulatory requirements specific to private sector participation in management of utilities.</i></u></p> <p>* IPs may be required to adjust the plan and timelines to meet PC / GOP requirements.</p>	15%
<p>Total Points for the three criteria: 100% The minimum technical score required to pass is: 70 Points</p>		

<p>5.2</p>	<p>Scoring of technical and financial proposals: The technical proposal shall be assigned a score (Str) which shall be scaled up to constitute a final technical score (St) in the following manner: -</p> $St = Str \times 100 / St_{max}$ <p>where St_{max} = Score of the highest ranked IP on technical criteria.</p> <p>The financial score (Sf) shall be calculated in the following manner, namely: -</p> $Sf = 100 \times (F_{min} / F_f)$ <p>where F_{min} = Lowest total fee bid and F_f = Total fee bid by the IP under consideration.</p> <p>The combined technical and financial proposal (Sc) shall be calculated in the following manner, namely: -</p> $Sc = 0.80 \times St + 0.20 \times Sf$
<p>7.2</p>	<p>Expected date for the commencement of the Services: Upon signing of FASA.</p>

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III: Technical Proposal - Standard Forms

[Comments in brackets [] provide guidance to the IPs for the preparation of their technical proposals; they should not appear on the technical proposals to be submitted.]

TECH-1 Technical Proposal Submission Form

TECH-2 IP's Organization and Experience
A IP's Organization
B Experience

TECH-3 Description of the Approach, Methodology and Work Plan for Performing the Assignment

TECH-4 Team Composition and Task Assignments

TECH-5 Curriculum Vitae (CV) of Key Professional Staff

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FORM TECH-1 TECHNICAL PROPOSAL SUBMISSION FORM

[Location, Date]

To: [Name and address of Client]

Dear Sir,

We, the undersigned, offer to provide the advisory services for [Insert title of assignment] in accordance with your Request for Proposal dated [Insert Date]. We are submitting our proposals which includes this technical proposal and financial proposal in separate envelopes.

We are submitting our proposals in association with: [Insert a list with full name and address of each associated Sub-Contractor]

We declare that all the information and statements made in our proposals are true and accept that any misinterpretation contained in it may lead to our disqualification.

Our proposals are binding upon us.

We understand you are not bound to accept any proposal; you receive.

We remain,

Yours sincerely,

Authorized Signature [In full and initials]: _____

Name and Title of Signatory: _____

Name of Firm: _____

Address: _____

FORM TECH-2 IP'S ORGANIZATION AND EXPERIENCE

A - Organization

[Provide here a brief (two pages) description of the background and organization of your entity (including organogram) and each Sub-Contractor for this assignment.]

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B - Experience

[Using the format below, provide information on each successfully concluded assignment/mandate for which your entity, and each Sub-Contractor for this assignment, was legally contracted as an entity or as part of the consortium, for carrying out services similar to the ones requested under this Assignment. Use maximum 5 pages. Please provide Client's certification and/or evidence of the contract agreement.]

Title of the assignment:	Value of the agreement (in USD):
Name of Client:	Region / location of successfully completed assignment:
Duration of Assignment:	
Name of senior professional staff engaged / worked on the assignments and major task(s) performed by them:	

FORM TECH-3 DESCRIPTION OF APPROACH, METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT

[Technical approach, methodology and work plan are key components of the technical proposal. You are suggested to present your technical proposal divided into the following three chapters:

- a) Technical Approach and Methodology;
- b) Work Plan; and
- c) Organization and Staffing.

a) Technical Approach and Methodology. In this regard, you should explain your understanding of the objectives of the assignment, approach to the services, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. You should highlight the problems being addressed and their importance and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach.

b) Work Plan. In this regard, you should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Client), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here.

c) Organization and Staffing. In this regard, you should propose the composition of your key professional staff including Sub-Contractors and should list the main disciplines of their assignment.

Note: Please avoid repetition of provided TORs.

FORM TECH-4 KEY PROFESSIONAL STAFF OF FA AND SUB-CONTRACTORS

<i>Key Professional Staff</i>					
Name of Staff		Organisation	Area of Expertise	Position Assigned	Task Assigned

FORM TECH-5 CURRICULUM VITAE (CV) FOR PROPOSED KEY PROFESSIONAL STAFF

1. **Proposed Position/ Role:** _____

2. **Name of Entity** [*Insert name of entity proposing the staff*]: _____

3. **Name of Staff** [*Insert full name*]: _____

4. **Years of Experience:** _____ **Nationality:** _____

5. **Education:**

<i>Degree</i>	<i>Major/Minor</i>	<i>Institution</i>	<i>Date (MM/YYYY)</i>

6. **Membership of Professional Associations:** _____

7. **Other Training** [*Indicate significant training since degrees under 6 - Education were obtained*]: _____

8. **Languages** [*For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing*]: _____

9. **Employment Record** [*Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.*]:

<i>Employer</i>	<i>Position</i>	<i>From (MM/YYYY)</i>	<i>To (MM/YYYY)</i>

11. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned

[Among the successfully concluded assignments/mandates in which the staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks listed under point 11.]

- 1) Name of assignment or project: _____
Year: _____
Location: _____
Client: _____
Main project features: _____
Positions held: _____
Activities performed: _____

- 2) Name of assignment or project: _____
Year: _____
Location: _____
Client: _____
Main project features: _____
Positions held: _____
Activities performed: _____

- n) Name of assignment or project: _____
Year: _____
Location: _____
Client: _____
Main project features: _____
Positions held: _____
Activities performed: _____

13. Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience. I understand that any misstatement may lead to my disqualification or dismissal, if engaged.

[Signature of staff member or authorized representative of the staff] Date: _____
Day/Month/Year

Full name of authorized representative: _____

ORIGINAL

IV. Financial Proposal - Standard Forms

Financial Proposal Standard Forms shall be used for the preparation of the Financial Proposal.

FIN-1 Financial Proposal Submission Form

FIN-2 Summary of Costs

FIN-3 Out of Pocket Expenses

ORIGINAL

FORM FIN-1
FINANCIAL PROPOSAL SUBMISSION FORM

{Location, Date}

To: [Name and address of Client]

Dear Sir(s):

We, the undersigned, offer to provide the services for [Insert title of assignment] in accordance with your Request for Proposal dated [Insert Date] and our technical proposal.

Our attached financial proposal is for the amount of {Indicate the corresponding to the amount(s) currency(ies)} {Insert ***Grand Total*** amount(s) as determined in **Form Fin-2** in words and figures} excluding the success fee, inclusive of *all retainer fee, out of pocket expenses, direct or indirect taxes, as below:*

Our financial proposal shall be binding upon us up to expiration of the validity period of the proposal, i.e. before the date indicated in Clause 1.8 of the Data Sheet.

We understand you are not bound to accept any proposal, you receive.

We remain,

Yours sincerely,

Authorized Signature {In full and initials}: _____

Name and Title of Signatory: _____

In the capacity of: _____

Address: _____

E-mail: _____

(Note: It is highlighted that in case of any discrepancy in the amount mentioned herein and Form Fin-2, the ***Grand Total Amount mentioned in **Form Fin-2** will be considered.)***

FORM FIN - 2
SUMMARY OF COSTS

Item	Bid / Cost			
Cost of the Financial Proposal US\$				
Milestone Based Retainer Fee US\$				
1. Phase 1 <i>i. Inception Report</i> <i>ii. Global Experiences</i> <i>iii. Sector Level Due Diligence</i> <i>iv. Preliminary Market Sounding</i>	(Insert number here) <i>(The total cost of this phase not to be more than 3% of Grand Total)</i>			
	FESCO	GEPCO	IESCO	Total
2. Phases 2, 3 & 4 (Combined Milestone based Retainer fee US\$)	<i>(Insert number here)</i>	<i>(Insert number here)</i>	<i>(Insert number here)</i>	<i>(Insert number here)</i>
3. Out of Pocket Expense US\$ (Should match the amount in Form FIN-3) <i>Please see Notes below</i>	<i>(Insert number here)</i>	<i>(Insert number here)</i>	<i>(Insert number here)</i>	<i>(Insert number here)</i>
4. Sub-Total US\$ (2+3)	<i>(Insert number here)</i>	<i>(Insert number here)</i>	<i>(Insert number here)</i>	<i>(Insert number here)</i>
	5. Grand Total US\$ (1 + 4) (Should match the amount in Form FIN-1) (Note: Weightage: 60%)			<i>(Insert number here)</i>
6. Success Fee (%) Success fee will be paid for each DISCO's separately based on achieving its financial closure (Note: Weightage: 40%)	<i>{Insert Percentage Here}</i> <ul style="list-style-type: none"> • (% of Sale Proceeds; for calculation purposes PC shall announce a notional value for expected sale proceeds, which will be used for calculation of Success fee prior to opening of Financial Proposals -pursuant to Regulation 9 of PC hiring of FA Regulations 2018. • One number applicable to all DISCOs- Mandatory to Quote Success Fee) 			
Total bid amount US\$ (for evaluation purpose only)	Total bid amount (for evaluation) will be calculated based on the following formula: (60% x Grand Total (1+4) + 40% x Success Fee)			

Notes below:

Note 1: The IP shall account for all out-of-pocket expenses associated with successful accomplishment of the transaction process including travel cost of relevant officials and the client shall not assume responsibility of incurring additional cost on any of the activity. Any disclaimer by the IP in this regard shall lead to disqualification.

Note 2: Cost incurred pertaining to advertisement and marketing roadshows (including travel costs for nominated PC officials) for soliciting interest from prospective investors and hiring of Third Party (ies) shall be borne by the Financial Adviser from out-of-pocket expenses with the prior approval of the PC. Please note that all third parties will be finalized/appointed after consulting and acquiring approval from PC.

***Note 3:** The IP shall provide details for all remuneration pertaining to lead member(s) & Sub-Contractor(s) and out of pocket expenses associated with successful accomplishment of the transaction process and the client shall not assume responsibility of incurring additional cost on any of the activity. Any disclaimer by the IP in this regard shall lead to disqualification.*

***Note 4:** IPs shall submit proposals inclusive of all applicable taxes.*

ORIGINAL

FORM FIN-3 BREAKDOWN OF OUT-OF-POCKET EXPENSES

The above-mentioned out-of-pocket expenses, paid at cost shall consist of following, where relevant, and be reasonably incurred by the Financial Adviser and its Sub-Contractor(s) in the performance of the Services:

S. No.	Type of Out of Pocket Expenses	Cost (USD)
1		
2		
3		
	Total	

NOTE:

Out of pocket expenses shall not exceed the sum stated above and on actuals.

TERMS OF REFERENCE

Hiring of Financial Adviser for Private Sector Participation in 03 DISCOs - Faisalabad Electric Supply Company (FESCO), Gujranwala Electric Power Company (GEPCO) and Islamabad Electric Supply Company (IESCO)

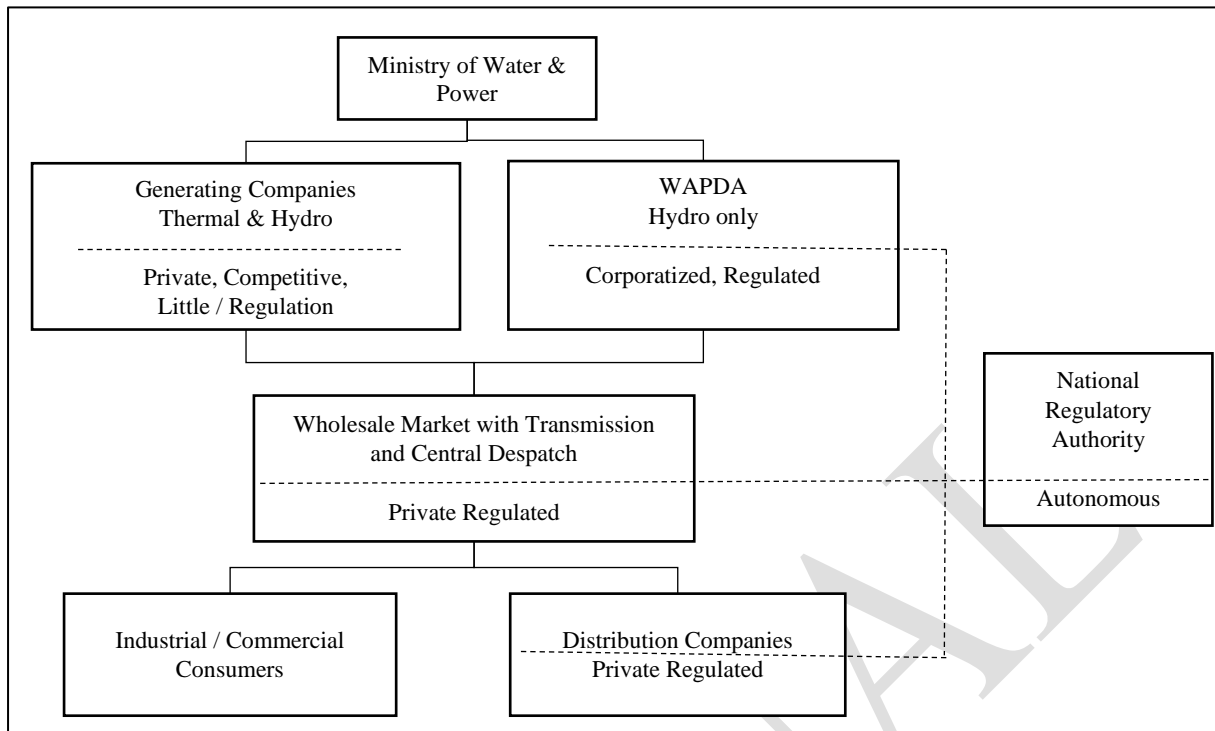
1. Background

Until 1990s, Pakistan had a monopolistic power regime, with Generation, Transmission and Distribution functions being carried out by the State Owned and controlled Water and Power Development Authority (WAPDA).

Considering the need to overhaul the systematic issues in the Power Sector and to ensure provision of the electricity to the public, the Prime Minister of Pakistan directed WAPDA to develop strategy for introducing private ownership in the power sector, provide managerial autonomy and introduce competition throughout the sector. Accordingly, WAPDA with association of United States Assistance for International Development (USAID) developed a Strategic Plan, which is commonly referred as 1992 Strategic Plan, which proposed a series of intervention in a phased manner to transform the power sector leading to un-bundling / de-centralization of WAPDA following by privatisation of power sector, limiting the government role in the regulation of the power sector with creation of power regulator. The document inter-alia outlines the following key goals for privatizing electric power sector:

- Enhance capital formulation for Pakistan Power Sector outside the Government of Pakistan's budget and without Sovereign Guarantees.
- Improve the efficiency of the Pakistan Power Sector through competition, accountability, managerial autonomy, and project incentives; and
- Rationalize prices and social subsidies, while maintaining certain socially desirable policies such as rural electrification and low-income lifeline rates.

The 1992 Strategic Plan laid down an aggressive timeline for privatisation of electric utilities, however, stressed on the need on an immediate basis, for creation of the distinct corporate entities. The Plan also charted out the following long term competitive power market structure:



The 1992 Strategic Plan was adopted by the Cabinet's Committee on Energy in July 1992 and a transition plan was developed by December 1992 consisting of following objectives:

- Restructure and Corporatize WAPDA
- Establish National Electric Power Regulatory Authority (NEPRA)
- Establish Electricity Pricing Arrangement – Wholesale Electricity Market
- Privatisation of WAPDA Operations

The Plan was also approved by the Council of Common Interest (CCI) in 1993, provided a very aggressive timeline of four years to achieve above and the Government initiated working on different tasks simultaneously. Amongst others this included initiation of efforts for privatisation of Faisalabad Area Electricity Board in 1992, however, the Government failed to take the process to its logical conclusion. Under WAPDA, Power Wing was responsible for operational activities of the Power Distribution by managing eight Area Electricity Boards (AEBs) situated in Lahore, Faisalabad, Gujranwala, Islamabad, Multan, Hyderabad, Peshawar, and Quetta.

In 1998, in order to fast-track implementation of the 1992 Strategic Plan, Government issued 1998 Action Plan, transition of WAPDA from vertically integrated monopoly structure to a competitive wholesale power market, which amongst others included incorporation of Pakistan Electric Power Company (PEPCO). The AEBs were transformed into following distribution companies DISCOs, with the government holding all shares with the transfer conducted under the purview of respective Business Transfer Agreement (and Supplementary Business Transfer Agreements):

- Faisalabad Electric Supply Company (FESCO)
- Gujranwala Electric Power Company (GEPCO)
- Hyderabad Electric Supply Company (HESCO)
- Islamabad Electric Supply Company (IESCO)
- Lahore Electric Supply Company (LESCO)

- Multan Electric Power Company (MEPCO)
- Peshawar Electric Supply Company (PESCO)
- Quetta Electric Supply Company (QESCO)

Note: Later, Sukkar Electric Power Company (SEPCO) was carved out from HESCO, whereas Tribal Electric Supply Company and Hazara Electric Supply Company were carved out of PESCO.

Besides these, Karachi Electric Supply Company (KESC) was vertically integrated company with its own generation, transmission and distribution company, which was privatized by the Government in 2005.

2. Introduction

Government of Pakistan (GOP) slowly and progressively has been able to pave its way towards implementation of competitive power market. The significant milestones achieved in this regard includes unbundling of WAPDA, Creation of National Transmission & Despatch Company (includes System Operator Functions under NPCC) , Operationalization of Market Operator i.e. Central Power Purchase Agency (Guaranteed) Limited (CPPA-G), National Electric Power Regulatory Authority (NEPRA), Distribution Companies (DISCOs) and most recently competitive market is finally nearing operationalization under Competitive Trading Bilateral Contract Market (CTBCM) which has been approved by NEPRA and is currently under implementation.

The National Electric Power Regulatory Authority (NEPRA) was constituted under the NEPRA Act as an independent regulatory authority for regulating and monitoring services and activities in the sector in accordance with the NEPRA Act. It is exclusively empowered to regulate the sector and determine electricity rates, charges, and other terms and conditions for the provision of electric power services, as applicable. The sector is under the legal framework of the Regulation of Generation, Transmission, and Distribution of Electric Power Act (NEPRA Act), which was initially approved by Parliament in 1997 and amended from time to time. The latest Amendment in 2018 introduced significant additional reforms, including the separation of the licenses for activities historically assigned to distribution companies, resulting in two licenses and specific regulations. Other changes include the introduction of a wholesale competitive electricity market focused mainly on bilateral contracts, the CTBCM, a market operator, and an independent system operator (implementations underway).

The national transmission system of NTDC consists mainly of 500 kV and 220 kV networks and is interconnected with the KE system through a 220 kV double circuit and two 132 kV single circuit lines. There are also provincial grid companies to transmit electricity within the province. Two provincial grid companies have been licensed already (the province of Khyber Pakhtunkhwa (KP) and the province of Sindh). KE has a transmission license for its own transmission facilities.

Pakistan's power generation is a mix of mainly thermal, hydel, wind, and solar, with a total installed capacity of around 46,754¹ MW.

NTDC currently has two separate licenses: a transmission license and a system operation license. As System Operator, through its National Power Control Center (NPCC), it has the responsibility for the safe and reliable operation of transmission and interconnection facilities and for the

¹ CPPA G Report 2023

economical and reliable operational planning, generation scheduling, and economic dispatch of all generation facilities connected either directly or indirectly, on a non-discriminatory basis, and real time operation.

Historically, the DISCOs have been selling and distributing power to consumers in their “Service Territory,” as defined in their initial distribution license. The network system of the DISCOs includes mainly 132 kV, 66 kV, 11 kV, and 0.4 kV lines and sub-stations and transformers. However, the NEPRA Act Amendments of 2018 eliminated exclusivity for distribution and supply. Eligible consumers (Bulk Power Consumers) can decide whether to procure electricity from the incumbent distribution licensee's electric power supplier or other electric power suppliers. As a distribution licensee, each DISCO must provide third-party open access to its distribution system on a non-discriminatory basis (provide wheeling services) to allow other licensed suppliers to sell power to eligible Bulk Power Consumers in the “Service Territory” of the supplier licensee.

Government over the years in order to address the commercial & technical losses of DISCOs and to bring private sector efficiencies in the management & operations of the DISCOs have made various efforts for bringing in private sector participation in DISCOs. In this regard, in last decade two major initiatives undertaken by GOP includes:

- a) In 2015, the Government of Pakistan mounted an effort to rapidly privatize fourteen state-owned enterprises in power generation and distribution. The Privatisation Commission, which was mandated with the implementation of this program, appointed a separate ‘Financial Adviser’ consortium for each of the envisaged fourteen transactions. The FESCO transaction, which was ahead of the other transactions, reached past the road show stage and interested private parties deposited their initial expressions of interest in the FESCO privatisation, but the program was called off at end-2015 by the Government.
- b) In 2021-22, Government of Pakistan approved private sector participation through long term concessions, however, no progress as limited interest came forward from the Financial Adviser for this transaction mode.
- c) Later, proposal for provincialization of DISCOs was deliberated by the Government, however, Caretaker Government decided to either consider privatisation or private sector participation of the DISCOs.

Over the years, expansion of electricity distribution infrastructure has resulted in the customer base of 34.68 million² spread across Pakistan. The table below contains DISCO wise consumers, no of feeders and respective coverage area:

Name of DISCO	Total Consumers (in Million)	No of total Feeders	Sanctioned Strength	Existing Strength	No of Districts	Total number of Circles
HESCO	1.23 M	596	10,966	7,120	13 districts of Sindh	4 Operation Circles (Hyderabad, Laar Mirpur Khas & Nawab Shah
QESCO	0.69 M	760	9830	5708	34 Districts of Baluchistan	6 Operation Circles (Central, Loralai,

² NEPRA State of Industry Report 2023

						Khuzdar, Sibi, Pishin, & Makran)
MEPCO	7.9 M	1714	24729	14707	13 Districts of Punjab	9 Operation Circles (Multan, DG Khan, Vehari, Bahawalpur, Sahiwal, R.Y Khan, Muzaffargarh, B/Nagar & Khanewal
LESCO	6.1 M	2154	32621	19586	5 Districts of Punjab	8 Operation Circles (Northern circle, Central circle, Eastern Circle, Okara circle, Southern circle, Sheikhpura Circle, Kasur Circle and Nanka Circle)
FESCO*	5.2 M	1265	23994	13002	8 districts of Punjab	6 Operation Circles (Faisalabad 1 Faisalabad, Jhang, Sargodha, Mianwali, T.T.Singh)
GEPCO*	4.1 M	988	18210	10868	6 Districts of Punjab	6 Operation Circle (City, Cantt, Gujrat, Sialkot, Narowal & Mandi Baha ud Din
IESCO*	3.7 M	1,319	19,635	11,504	Islamabad + 3 Districts of Punjab and Partially 2 Districts of KPK	6 Operation Circles (Islamabad, Rawalpindi, Cantt Rawalpindi, Attock, Jhelum & Chakwal
SEPCO	0.81 M	577	9556	6063	Ten districts of Sindh	5 Operation Circles (Sukkur, Larkana, Dadu, Ghotki, Shikarpur)
PESCO	4.2 M	1, 250	28, 808	13, 246	28 Districts of Khyber-Pakhtunkhwa Khawa	9 Operation Circles (Peshawar, Khyber, Mardan, Hazara I, Swat, Bannu, Hazara II, Swabi, DI Khan)
TESCO	0.45 M	321	2452	1020	7 Ex-FATA merged Districts and 6 FRs of KP	1 Circle (FATA operation Circle)

* Only these DISCOs are included in the Scope of Work of this RFP.

As per the above NEPRA State of Industry Report 2023, only this year the Government has incurred as loss of PKR ~412 Billion on account of the technical and financial losses.

The Cabinet Committee on Privatisation (CCoP) in its meeting held on 02nd August 2024 approved the privatisation programme (2024-29) that inter-alia includes privatisation of DISCOs, which includes the recommendations of the special purpose committee on DISCOs formulated by the Prime Minister of Pakistan to lay down the way forward with regards to the government's role in the functioning of the DISCOs. The same was ratified by the Federal Cabinet in its meeting held on 13th August 2024.

3. Objective:

Reforms in the power sector implemented over the past three decades have led to the unbundling of vertically integrated power wing of WAPDA into independent companies, i.e., four Thermal Generation Companies; one National Transmission and Dispatch Company (NTDC); and ten DISCOs - HAZECO is currently not included in the list, as an essential preparatory step for corporatization, commercialization, and subsequent private sector participation in these companies through different modes such as privatisation, concessions, etc., in accordance with GOP's policy and objectives.

The Government of Pakistan (GOP) is implementing a comprehensive program for private sector participation in the state-owned power distribution companies ("the DISCOs") of Pakistan's Power Sector. This will include the two business activities in each DISCO - the distribution system service provider (a wires business) and the supplier of last resort business (sales to consumers).

The Government of Pakistan seeks to secure private participation in the DISCOs with the following objectives:

- Reducing the distribution system losses and improving collections of each DISCO and
- Improving service quality and consumer satisfaction.
- Adopt strategies for bringing improvement in performance and operational efficiency in electric utilities and converting them into profitable entities.
- Bring in private sector expertise and capital required for converting the existing electric utility companies i.e., DISCOs into modern smart electric distribution utilities; and
- Achieve optimum benefit for GOP from divestment of GOP equity in electric power utilities, by reducing the losses incurred by Government, introducing private sector efficiencies and capital formulation resulting in enhancing the value of GOP's residual shareholding through much needed investments, modernization & up-gradation and governance etc.

Based on the stated objectives and the international experience, the Government of Pakistan has decided to introduce private sector participation in FESCO, GEPCO and IESCO through Privatisation (Transaction) under ("First Batch"). It is envisaged that the private party will purchase respective DISCO in First Batch and will be subject to the distribution license and a supplier of last resort license and associated regulations.

The GoP has developed a comprehensive Program for private sector participation in the DISCOs. The Privatisation Commission (PC) is responsible for implementing the program regarding the transactions, following the Guidelines on private sector participation in DISCOs and Competitive Processes established by the GoP – Ministry of Energy (Power Division) and approved by the CCOP and the Cabinet of Ministers.

For the development of this Program for private sector participation in the DISCOs, the GoP has decided to implement it in phases. These TORs relate to hiring of Financial Adviser for privatisation of FESCO, IESCO and GEPCO as approved by the Federal Government in Phase 1. The sequencing of privatisation of each DISCO will be decided by Privatisation Commission and communicated to Financial Adviser. The Financial Adviser must be prepared to carry out the implementation of the Privatisation of the three DISCOs simultaneously, or one by one, or combination of both.

In this regard, the GoP is soliciting proposals from Financial Advisers to provide services as described in the TORs for privatisation of FESCO, GEPCO, and IESCO through privatisation process.

3.1 Objective

The Financial Adviser is responsible for providing full sphere of transactional advisory services covering distinct phases of the transaction including details of the transaction mode and transaction structure resulting in bringing in private sector participation in the DISCOs. For achieving ultimate objective, it is expected that Financial Adviser shall engage a diverse multidisciplinary team of experts with proven experience of undertaking similar transactions in electric utility distribution involving institutional, financial and corporate restructuring, with proven experience in different functions of electric power utility business (commercial, tariff, secondary transmission grid, distribution grid, commercial and allied ancillary etc.) technical restructuring operational analysis of the electric utility, legal & regulatory review of the markets, power market- analysis, due-diligence on legal, regulatory, technical, financial, tax, HR, labor union matters, and Environmental and social responsibility matters. Furthermore, the Financial Adviser may on-board any third-party / sub-consultants to undertake the activities relating to transaction.

The main task of the Financial Adviser is to advise on the details of the transaction mode and transaction structure for private participation in the DISCOs based on the comprehensive due diligence and to assist Privatisation Commission in carrying out the transaction while keeping the interests of the GoP paramount.

The Financial Adviser is expected to take overall responsibility for carrying out all tasks / activities required to be performance under this agreement, including assistance to Privatisation Commission / GoP / respective DISCO for successful completion of the transaction, which amongst others, will include comprehensive due diligence; market sounding, restructuring (if required) and transaction structure, the calculation of a reference price for each DISCO selected for privatisation in phase 1; development of marketing strategies / plan, attracting private sector participation in the transaction; pre-qualification of investors for bidding; facilitate pre-qualified bidders in buy-side

due diligence, preparation of bid documents in line with best industry practice and the GoP's objectives for private participation, and administration of the competitive bidding process.

3.2 Definition of the Approach

The private sector participation of the respective DISCO of First Batch through privatisation is expected to involve selling the company with its assets, liabilities and all the rights and obligations of the distribution license and supplier of last resort license according to regulatory provisions. However, the licenses required for those businesses have a defined duration, and before expiration, the investor will have to apply for renewal or extension of the licenses. The license and regulatory obligations include investments and connections, as well as compliance with all the conditions of the licenses of the DISCO and the associated regulatory framework. The rights include charging and collecting as distribution licensee from suppliers for distribution services (use of system charges) and as supplier licensee from its consumers.

Additional Consideration

Irrespective of mode of transaction, the following considerations will also apply:

- i. The DISCOs are under a Multi-Year Tariff (MYT) regime. Before the end of the 5-year period of the MYT determined in 2023 (and before the end of each subsequent multi-year tariff period), the investor will have to file a tariff petition for distribution and a tariff petition as a supplier of last resort, subject to the Tariff Rules and NEPRA tariff guidelines with the associated methodology and process.
- ii. The GOP has may identify certain measures regarding cleaning up the DISCOs' balance sheets **with no cash impact on the GOP**, such as **Re-Allocation of equity, the outstanding payables due against GOP, re-lent loans, PHPL Loans, etc.**
- iii. Furthermore, the GOP may want the private party to retain the employees of the DISCO(s) for a specific number of year post privatisation. During this period, private party may have the option of offering Voluntarily Separation Scheme (VSS).
- iv. During the Sectoral / Company Level Due Diligence(s), the Financial Adviser is expected to review the work carried out in this regard and may make appropriate recommendations.
- v. The sequencing of privatisation of each DISCO will be decided by Privatisation Commission and communicated to Financial Adviser. The Financial Adviser must be prepared to carry out the implementation of the Privatisation of the three DISCOs simultaneously, or one by one, or combination of both.

4.Scope of Work

This section is designed to identify some of the activities that GOP envisages to be performed by Financial Adviser at this point and should not in any way be construed as the complete set of activities required under any contract resulting from these Terms of Reference (TORs). The Financial Adviser is expected to undertake all tasks required to be performed in successful completion of Transaction. Financial Adviser is required to submit their technical and financial proposals that are not only compliant with the requirements of this section but also demonstrate understanding of the parties interested to become Financial Adviser, for

overall scope of work and to demonstrate their relevance of their previous experience(s) for undertaking these transactions.

Notwithstanding anything contained in this agreement, the client shall have the right to issue a notice in writing to Financial Adviser, at any time, to suspend or stop the services relating to any deliverables that have not been completed by the Financial Adviser and approved by the Client and / or to exclude any DISCO in First Batch from the scope of private sector participation; and the Client and GOP in such event, shall not be liable to make any payment whatsoever to the Financial Adviser for any unfinished part of the Services and outstanding.

The overall activity is expected to comprise of the following distinct phases. However, the Financial Adviser may be required to carry out these phases sequentially or in parallel, as communicated by Privatisation Commission.

4.1 Phase-I: SECTORAL LEVEL Due Diligence

4.1.1: Inception Report (Two Weeks from Signing of FASA)

The Financial Adviser will commence the work with a kickoff meeting at a mutually agreed location in Pakistan, followed by the First Review Meeting within two weeks after signing the contract and beginning the work.

The objective of the First Review Meeting is to define the contact persons of the Financial Adviser, of the Privatisation Commission, and representatives of the Ministry of Energy Power Division, GOP, and NEPRA, and confirm the overall plan and timelines of the tasks and activities defined in the TORs, as well as to clarify any question or concern on the interpretation of the scope of work.

This meeting will cover the following:

- (i). Detailed schedule of activities leading to the implementation of the Program for private sector participation in DISCOs of the First Batch, including, in particular, all major milestone activities and harmonized with the timeline approved by GOP for completing it;
- (ii). Confirm the organization of the Financial Adviser's team (including the project leader and experts) and the detailed functions of the experts;
- (iii). Indicative Schedule of meetings, reviews, presentations, and the objectives for each;
- (iv). Confirm Deliverables, clarifying further, if necessary, the scope of each deliverable and the Delivery Schedule including Implementation Plan;
- (v). Interface Requirements, in particular the designation of representatives of GOP and NEPRA;
- (vi). Any specific issues requiring attention of the Privatisation Commission on an immediate basis; and

- (vii). Other issues or details of tasks and activities requiring clarification by the Financial Adviser or the Privatisation Commission.

Under no circumstances would the objective of the First Review Meeting be to redefine the scope of work committed in the Contract of the Financial Adviser. In case of inconsistencies between the Contract and the First Review Meeting and Inception Report, the former will rule unless specifically, and in writing, agreed otherwise.

The Financial Adviser will deliver an Inception Report summarizing the results and commitments of the First Review Meeting.

- Deliverable:** i) Inception Report
ii) Implementation plan containing sequencing and timelines of tasks / activities.

4.1.2: Global Experience:

- i) Reviewing and evaluating successful electric distribution utilities privatisations undertaken globally. For this purpose, Financial Adviser shall develop a list of comparable electricity distribution utilities.
- ii) For each utility the Financial Adviser is expected to describe;
 - a) Operational and transactional parameters such as area of coverage, post-privatisation number of utilities carved out, customers base, electric distribution capacity, power handling capacity, etc.
 - b) Key features of Privatisation including assets base transferred, investment commitments, treatment of existing employees, infrastructure development & expansion, percentage of ownership transferred, mode of achieving private sector participation, transaction structure, restructuring if any incentives given regulatory & legal frameworks in place, subsidies / penalties, etc.

Deliverable: Report on Global Experiences covering:

- i) List of examples
- ii) Review each example
 - a. Operational and transactional parameters of entity
 - b. Key features of privatisation transactions
- iii) Recommendations

4.1.3: Sector-level Due Diligence

The Financial Adviser will conduct but not limited to the following activities:

- a) a holistic review of the power sector and DISCO related publicly available data, electricity law, and by-laws, as well as a review of the sector's current legal & regulatory framework (including but not limited to tariff, technical, etc.) as a whole and

in particular for distribution and supply activities, to thoroughly understand the structure, features, and history of the power sector and be able to carry out its functions fully based on the reality of the power sector and applicable legal and regulatory framework.

- b) Financial Adviser is expected to conduct comprehensive due diligence and identify any issue(s) in current electric power policy, legislative and regulatory frameworks that may affect introduction of private sector participation in ownership and management of DISCOs transaction and provide recommendations preferably with respect to required administrative actions and minimal amendments to Legal / Regulatory framework(s) to mitigate the impact which may be shared with NEPRA, Power Division and other relevant GoP stakeholders. The recommendations are to be supported by examples of their successful adoptions, regionally / globally.
- c) Review the modifications in policies or regulations planned and / or underway to be completed, identify any areas of improvement(s) and provide appropriate recommendations with a view to encourage private sector participation in DISCOs.
- d) The Privatisation Commission will be responsible for sharing the review and recommendations with the relevant Government Ministries or Agencies but may require the Financial Adviser to present and explain their review and findings to the relevant ministries or agencies.
- e) The Financial Adviser is expected to review the approved wholesale competitive market design for Pakistan's Power Sector—the Competitive Trading Bilateral Contracts Market (CTBCM)—and its current status and take it into consideration in the Information Memorandum and, as applicable, bidding documents. The CTBCM has been designed independently of ownership for both private and public sector market participants, particularly the role of suppliers.
- f) The Privatisation Commission will facilitate the Financial Adviser in arranging all relevant information from stakeholders required for completion of this transaction.
- g) Review the overall Governance Structure of Power Distribution Companies,
- h) Review the Multi Year Tariff period of DISCOs in the First Batch and highlight any potential impact on the timelines / sequencing of the transaction(s).
- i) During the course of the Sectoral review, the Financial Adviser will also be required to identify any potential post privatisation risks under existing legal / regulatory frameworks that may impact the Government and the end-consumers and suggest mitigation measures.
- j) The Financial Adviser will draft a document describing the scope and results of the sectoral due diligence and present the key findings of its review to the Privatisation Commission / GoP, particularly explaining the issues identified and proposed mitigation measures.

Deliverable: Report on Sector due diligence, which amongst others, covers following areas:

- (i). Review of the legal, regulatory, tariff, technical & commercial frameworks;
- (ii). A dedicated section in the document will cover the review and comments on new or modification of policies or regulations underway;
- (iii). Identification of any issues that may affect private sector participation in DISCOs and the recommendations to mitigate these risks;
- (iv). Identification of any risks that may affect buyer & seller post privatisation and the recommendations to mitigate these risks;
- (v). The results of the meeting with the Privatisation Commission, and how the feedback and comments received were addressed in the document.

4.1.4: Preliminary Market Sounding

- a) The purpose of this task is to:
 - (i). Assess investor appetite for participation of private sector in DISCOs in First Batch whether DISCOs can be offered to the potential investors simultaneously or in a phased manner.
 - (ii). Assess market interest in each DISCO in First Batch and also seek input with regards to any recommendations from the investors to successfully carry out the transaction.
 - (iii). Based on the feedback received, recommend the number and phasing of the DISCOs in First Batch to be offered in the market.
 - (iv). Assess investor's preference regarding the preferred corporate & financial structure of DISCOs in First Batch and transaction structure option to ensure maximum private sector participation in each DISCO in First Batch and maximize the value for GoP.
- b) In this regard, the Financial Adviser is expected to reach out to the potential investors both local and international level likely to be interested in the transaction;
- c) Develop target investors profile, along with their financial and technical capabilities;
- d) Financial Adviser is expected to conduct meetings at local and at-least one at international level, with potential investors, investment houses and leading businesses etc.

Deliverable: A detailed report on investors' meeting along with the feedback of the potential investors.

4.2 PHASE-II: Company - Level Due Diligence

For each DISCO in First Batch, the Financial Adviser will conduct a detailed review and analysis of operations (physical, financial, technical, legal, regulatory and institutional, environmental, labour, etc.). The review of the Financial Adviser will include, among others:

- applicable legislation,
- contractual obligations,
- ownership, when applicable,
- liabilities that impact the successful completion of the private sector participation transaction for the DISCO.

The purpose of the due diligence is to identify issues and considerations in each of the below-mentioned areas that need to be considered by the Privatisation Commission and other entities of the GOP that are material to affect the sale process. The issues thus identified will then be addressed in the plan for private participation and prepared subsequently by the Financial Adviser to implement the plan successfully.

The Privatisation Commission, through the management of the DISCOs will be available to assist the Financial Adviser in conducting the due diligence, including providing the required information and documentation. The Financial Adviser may have to undertake the Company-Level Due Diligences in parallel, with sectoral due diligence, as communicated by Privatisation Commission.

4.2.1: Legal and Regulatory:

Conduct due diligence on the following:

- a. Review readiness of DISCOs in terms of compliance with all legal and regulatory requirements;
- b. Review documents provided by the DISCOs and Power Division, required to assess the status of DISCO's legal and contractual obligations and provide disclosures to potential investors, with the Privatisation Commission's approval;
- c. Review applicable licenses of the DISCOs and identify issues or concerns, if any;
- d. Build an understanding of NEPRA tariff methodologies and processes for distribution and for suppliers, as applicable for DISCO;
- e. Any other task required to assess the condition of DISCO from the legal and regulatory aspects and identify gaps or issues, if any;
- f. Review of the existing / foreseen contractual arrangement between DISCO and other counterparties to identify the issues / bottlenecks and recommend the appropriate solution to address the problems;
- g. Review of title deeds to ascertain ownership of properties in the name of DISCO and identifying any associated obligations related to payments to WAPDA or any other entities. Advise on possible options to address any issues with regards to ownership of the properties;
- h. Review and undertake assessment of manpower relating different contractual obligations including labor unions resulting in highlighting risk areas and recommendations to mitigate these risks;
- i. Make a list of potential red flags that may impact the Privatisation of DISCO and recommend mitigation measures.

Deliverable: Legal and Regulatory Due Diligence Report identifying issues and respective recommendations

4.2.2: Technical:

Conduct technical due-diligence for each DISCO in First Batch on the following:

- a) the agency agreement with CPPA-G to procure power on the DISCO's behalf, the obligations and rights resulting from that agreement, and power/energy purchase agreements;
- b) the number of and energy sales to customers, per category and total;
- c) compliance with performance standards regulations and history of efficiency indicators such as distribution losses and collections;
- d) staffing levels;
- e) the decisions on the determined multi-year tariffs (for distribution and supplier), in particular, the investment plan and the instructions on actions or reporting due by the DISCO;
- f) any issue on environmental performance and compliance;
- g) Detailed Due diligence on DISCOs' assets and its operations, such as
 - (i). Purchase of energy from CPPA-G, sale of energy to customers, staffing levels, forecasted sale projection, current state of the network, network enhancements required, IT Systems and future requirements, etc.;
 - (ii). Review the operational agreements of DISCOs in the First Batch with CPPA-G and associated parameters of the agreements;
 - (iii). Review alignment of DISCOs technical, operational and commercial operations with Multi Year Tariff (MYT) tariff petitions submitted by the DISCO to determine the areas of concerns and make necessary recommendations, where required;
 - (iv). Review on-going procurements particularly relating to infrastructure under different funded programs and their impact on DISCOs business with private sector participation;
 - (v). Review and confirm inventorization of the assets and their reconciliation with reported figures;
 - (vi). Others that may be required to assess and determine the condition of assets and compliance with applicable regulations;

Deliverable: Technical Due Diligence Report

4.2.3: Financial:

- a) Review the latest available audited financial statements from FY2022, FY 2023, the management / audited accounts from FY2023-2024, and different aspects of tariff, tax, financial structure, financial accounts and comment about their adequacy or any issue that can significantly impact the transaction(s). Identify different trends in balance sheet, Profit & loss and Cash flow statements, etc., which have significance for the transaction(s).

- b) Valuation of the business as per applicable international standards including estimating the value of material assets held in inventory / stores, etc., related to operations.
- c) Review the decisions of the GOP on cleaning the balance sheets and recommend, if considered necessary, other actions for cleaning up the balance sheets, taking into consideration major lender guidelines/covenants and GOP objectives.
- d) The results and recommendations of this financial review will be presented by the Financial Adviser to the Privatisation Commission for their decision on the next steps. The Privatisation Commission may invite the participation of other stakeholders in the presentation to collect further comments.
- e) In addition to that, the Financial Adviser will be responsible for:
 - (i). The implementation of the financial restructuring, including management of DISCOs liabilities, will be the responsibility of the Financial Adviser, based on the inputs received from the Privatisation Commission.
 - (ii). Wherever loan guarantees, lenders' consents, or GOP approvals are involved, the Financial Adviser, with the help of its legal team members, will identify the necessary consents and procedures required, draft the necessary documents to obtain such consents, and assist the Privatisation Commission to obtain the necessary consents.
 - (iii). Financial Adviser to undertake a comprehensive review of the legal status of DISCO's liabilities, including assessing liabilities including, contingent liabilities and obligations that DISCO's may have developed over the years.

Deliverables:

- i) Financial & Tax Due Diligence Report identifying issues and respective recommendations for the GoP

4.2.4: Human Resources

- a) Review of different aspects relating to Human Resources / manpower of the DISCOs;
- b) Review various components of the manpower costs (including pension and employee relating liabilities) both at departmental and organizational level across various cadres / pay scales;
- c) Review labor related matters / obligations and potential risks along with recommendations;
- d) Review of the post-retirement commitments electric utility business has to undertake and provide recommendations in this regard;

Deliverable: HR Due Diligence Report identifying issues and respective recommendations for the GoP.

4.2.5: Environmental & Safety

Due diligence on environmental & safety processes and compliance requirements alongside recommendations to mitigate any risks and corrective actions.

Deliverable: Environmental Due Diligence Report identifying issues and respective recommendations for the GoP.

4.2.6: Summary of key findings of Due diligence

The Financial Adviser will consolidate the findings, recommendations, and results of the above deliverables in a summary report on key findings of the due diligence.

Deliverable: Summary Report on Key Findings of Due Diligence Report

4.3 Phase-III: Preparation of the Transaction

The Financial Adviser may be required to carry out this Phase in parallel with other phases, as communicated by Privatisation Commission. This phase consists of following:

4.3.1: Restructuring Plan

To ensure that the GOP/ Federal Cabinet has latest /updated information available for making an informed decision, Financial Adviser, if required, based on Due Diligence work carried out and market sounding in Phase I above, will be required to submit a draft restructuring report covering any envisage restructuring, with Financial Adviser's firm recommendations from options, solutions on various inherent issues, along with timelines and strategies, and to make a clear recommendation to the GOP on the most preferred course of action to maximize the value from private sector participation in the DISCOs.

The preferred option should indicate net benefits and conformance to the GOP objectives, vis-à-vis, other options in a quantifiable manner. At this stage, GOP envisages that Financial Adviser will provide clear recommendation regarding any financial and / or corporate restructuring ensuring:

- a) Post restructuring, the DISCO's will generate maximum investor's interest and maximize the value for the GOP from the privatisation proceeds.
- b) Complete list of assets and liabilities (Financial Statements), including any recommendations for the cleaning-up/split of the balance sheets with updated valuation of retained and carved out assets and liabilities, development of post-restructuring financial model and recommendation of base valuation, restructuring of the existing debt & lease arrangements etc.
- c) The recommended restructuring plan to specifically identify which processes and actions are required to undertaken and their sequencing to ensure implementation of the restructuring plan.

- d) Prepare the necessary required documentation for the proposed restructuring options, with clearly mentioning the requirements of the process and expected timelines.
- e) Provide a complete list of policy, corporate and regulatory actions required to be undertaken by different stakeholders, which are necessary for undertaking implementation of the restructuring report.
- f) Prepare a detailed implementation plan covering the timelines and stakeholders responsible for undertaking the identified recommendations on financial, structural, operational, technical legal and regulatory changes / amendments / interventions, etc., required to attract private sector participation in DISCOs.

Deliverable:

- i) Restructuring plan approval from the Federal Cabinet
- ii) Develop Implementation Plan for redressing of issues to ensure private sector participation in the DISCOs and Financial Adviser will also be responsible for:
 - a. the implementation of the financial restructuring, including management of DISCOs liabilities,
 - b. Report containing recommendations with regards to financial restructuring required, if any.
 - c. the elaboration of the necessary consents and procedures required, drafting the necessary documents to obtain such consents, approvals and assisting the Power Division / DISCOs to obtain the necessary consents, approvals, wherever loan guarantees, lenders' consents, or GOP approvals are involved. Undertake required corporate / regulatory actions for assistance in implementation of the approved transaction structure and implementation plan.

4.3.2: Transaction Structure

- i. Based on the Due Diligence activities and market sounding activities undertaken, considering the restructuring plan and based on preliminary input from potential investors; Financial Adviser will be required to develop
 - a) different transaction structures and modes based on the identified issues, percentage of shares to be divested and likely sale proceeds; transaction structure options with associated pros, cons and risks for private sector participation with a clear recommendation to the GOP on the most preferred transaction structure option for attracting private sector participation in the DISCOs.
 - b) a target investor profile particularly specifying what financial and technical capabilities are required (qualifications required); and
 - c) any other aspect related to preparing, organizing, and administering the transactions.

- ii. It is expected that the transaction structure would, inter-alia, include:
 - a) detailed transaction structure features;
 - b) percentage of shares to be divested and likely sale proceeds;
 - c) target investor(s) profile;
 - d) implementation plan and schedule of activities;
 - e) any other related aspects.

- iii. In this regard, Financial Adviser is expected to make presentations to the Privatisation Commission Board, CCoP / Federal Cabinet or any stakeholders required for approval of the Transaction Structure. Financial Adviser is also expected to provide assistance to the Privatisation Commission / GOP entities to facilitate implementation of the approved transaction structure and implementation plan.

Deliverables: Transaction Structure Report and its Approval by the Federal Cabinet

4.4 Phase-IV: Implementation of the Transaction(s) and Closure

The scope of work of Phase IV will cover the following Taks described below together with the expected deliverables, which may be required to be carried out in parallel with other phases, as communicated by Privatisation Commission:

4.4.1: Marketing

The Financial Adviser is expected to conduct marketing throughout Phase III as an ongoing parallel activity.

- a) Due to the complexity of the product to be privatised, the initial phase of the marketing activities will be to sound out the appetite of the market for participating in this process. The Financial Adviser must take into consideration that the marketing targets should be largely focused on international operators meeting the qualification criteria.
- b) The Financial Adviser will work with the Privatisation Commission to develop and assist in the implementation of a marketing strategy to attract qualified investors. Financial Adviser will be required to recommend local and international Road Shows to highlight the DISCOs offered for private sector participation, the sector structure, framework, and policies related to private sector participation, the opportunities arising from efficient management of the company, and the investment climate in Pakistan for local and international investors.
- c) The Financial Adviser will be required to have teaser document and be able to present to potential investors;
- d) The Financial Adviser will develop and assist in the implementation of a marketing plan for introducing the company and projecting its image through various media at home and abroad to bolster the value and expand the interest of the strategic investors in the company.
- e) Besides focusing on marketing to prospective investors and considering the sensitivity and socio-economic aspects of the transaction, Financial Adviser will also delineate media

engagement strategy through effective usage of various media channels/forums. Effective print, electronic and social media campaign is envisaged to focus on highlighting and projecting the benefits and countering any negative coverage relating to transaction.

- f) Financial Adviser will be required to be present/available for discussions with potential investors.

Deliverable: i) Marketing & Communication Plan

ii) Road Shows and complete briefs on all the interactions with the investors

4.4.2: Information Memorandum

The information memorandum will be an indicative document for bidders, who will have, with the facilitation of the Privatisation Commission, the right to make their own due diligence to assess their participation and bids.

- a) The Financial Adviser will prepare the proposed Information Memorandum based on the results and activities carried out in Phase II. The Financial Adviser will present the draft Information Memorandum to Privatisation Commission for their review and comments. The Privatisation Commission may share the document with the Power Division, NEPRA, and/or the applicable DISCOs for their review and comments.
- b) The Financial Adviser will prepare the final Information Memorandum addressing the comments received.

Deliverable: Information Memorandum for the Transaction

4.4.3: Financial Model and Reference Price

The purpose of the financial model of a DISCO(s) is to assess the potential value of the businesses of the DISCO(s).

- a) After completing Phase III and based on its results, the Financial Adviser will develop / update (if available) the Financial Model of the DISCO(s), in coordination with the management of the respective DISCO, its associated database to evaluate each DISCO's business potential considering potential demand growth, evolution of targets for losses, current approved tariffs and future earnings, and other business considerations, etc.
- b) With the Financial Model of a DISCO(s), the Financial Adviser will carry out the calculation of the proposed Reference Price for the corresponding DISCO(s) in the transaction. The calculation amongst other will include a sensitivity analysis, considering scenarios on changes in key variables, such as losses, tariff levels and debt-equity ratio, on the businesses' overall value in the DISCO(s). The Financial Adviser shall use the most prudent and relevant techniques to assess and determine the Reference Price of each DISCO and include in its proposal a description of the methodology and concepts it will use to calculate the reserve price.

- c) The Financial Adviser will provide a description of the model, including details of all assumptions, reasoning, and recommendations. The assumptions and parameters of the model should be discussed with the concerned stakeholders, to avoid any disagreement over the model's outcome at the final stages and the description of data and assumptions, explaining the rationale of assumptions.
- d) The Financial Adviser shall present the inputs, assumptions, and results of its sensitivity analysis and recommended reference price for DISCO(s) to the Privatisation Commission Board, CCoP and Federal Cabinet for their review and approval. Other stakeholders, particularly the Power Division or members of the Board of the relevant DISCO(s), may participate in the presentation to provide observations and feedback.
- e) The financial models along with the associated database will be kept confidential and will be the property PC / relevant DISCO / GoP.

Deliverable: Financial Model resulting in Reference Price and Sensitivity Analysis Report with assumptions and results for each DISCO.

4.4.4: Expressions of Interest and Pre-qualification

In parallel with other tasks in this phase, the Financial Adviser will prepare the documents for the process of solicitation of Expressions of Interest (EOI) and Request for Statement of Qualifications (RSOQ) including pre-qualification criteria, for pre-qualification of potential bidders for DISCOs included in the transaction.

- a) **Preparation:** The Financial Adviser shall prepare the documents for the request for EOI, including the following:
 - (i). A summary description of the transaction based on the approved Information Memorandum;
 - (ii). All pre-qualification criteria, with a particular focus on expertise in efficiently operating and administering and/or turning around power distribution utilities;
 - (iii). the timeline and all formal requirements to submit the EOI, including the deadline (date and time);
 - (iv). any evidence or other information required to be submitted to demonstrate their qualifications;
 - (v). the right of the Privatisation Commission to decide not to proceed with the procurement of a Financial Adviser.
- b) **Launch of request for EOI:** The Privatisation Commission will review and approve the documents to launch the request for EOI. The Financial Adviser shall ensure the request for EOI is widely disseminated in the local media and internationally and to potential interested parties to foster a competitive process.

- c) **Evaluation of EOIs and prequalification of bidders:** The Financial Adviser will assist Privatisation Commission in evaluating the Statement of Qualifications (SoQs) received against the criteria and determine the pre-qualified parties that meet at least the minimum requirements to participate in the privatisation process.
- (i). The Financial Adviser will prepare a report encapsulating the process followed, EOI submitted, SOQs received, and results recommending the pre-qualified parties, with the corresponding assessment with approved qualification criteria and justification. The recommendations will be submitted before the Board of the Privatisation Commission, which will review and approve the pre-qualified bidders, who will then be invited to the next stage of the bidding process.
 - (ii). Establishment of Virtual Data Rooms for facilitating due diligence by the pre-qualified bidders. This will include development and signing of non-disclosure agreements with the pre-qualified bidders before granting access to the data rooms and managing data rooms including answering any queries.
 - (iii). Financial Adviser will be required to conduct site visits, expert sessions, presentations on the business plans, etc., to facilitate pre-qualified bidders in their respective buy side due diligence.

Deliverables:

- (i) EOI documents & Advertisement, and (ii) Request of Statement of Qualification (iii) Pre-Qualification Criteria and its approval from the Privatisation Commission Board, (iii) Review of the SOQs submitted and its evaluation Report (iv) Approval of Pre-Qualified Bidders from Privatisation Commission Board and (v) Establishing the Virtual Data Rooms.

4.4.5: Bidding Documents

The Financial Adviser will be responsible for preparing the bidding documents describing the process and timetable, evaluation criteria for the bidders (technical, operational, and financial), and legal agreement (the Sale of Shares Agreement).

In particular, the Financial Adviser will prepare the following information for the bidding documents along with bid application form:

- (i). the deadline for submitting bids;
- (ii). the structure of bids, as separate technical and financial proposals, and the minimum content and format required for the proposals;
- (iii). the mode to submit bids (electronic submissions or submissions in paper);
- (iv). the minimum qualification requirements (bids that do not comply with those requirements will be rejected) and the technical and financial evaluation criteria;
- (v). the draft of the legal agreement(s) along with a separate report highlighting the post privatisation material risks for GoP / respective DISCO (s) / End-consumers

including risk of exploitation of any legal / regulatory provisions by the buyer to the disadvantage of Government/ DISCO(s)/ End-consumers; and appropriate protections in legal agreement(s).

- (vi). Scheduled deadline for requests for clarifications and comments and response to comments received.
- (vii).Planned timelines for the evaluation of proposals, selected bids, negotiation, and award;
- a) In the technical proposal, the bidder may be required to present its plans to manage DISCOs, including but not limited to: (i) it plans to provide the distribution services and control losses, including practical experience; (ii) its plan as a supplier, related to administration of commercial cycle (billing, collection, and non or late payment); (iii), in general, its plan for the modernization of management and operation practices to improve quality of services, in particular, achieve performance standards; (iv) any other plan the bidder considers will enhance the efficiency of the DISCO(s);
- b) The Financial Adviser will prepare drafts of the bidding documents and legal agreements. If necessary, the Financial Adviser will revise the documents according to the instructions received from the Privatisation Commission, feedback from pre-qualified bidders and finalize the bidding documents.
- c) The Financial Adviser will ensure that all documents are prepared in accordance with local and international disclosure requirements and should meet good business practice norms.

Deliverables: Bidding documents including Legal Agreements

4.4.6: Bidding Process

- a) The Financial Adviser will administer the entire bidding process on behalf of the Privatisation Commission, including but not limited to pre-bid conference(s), facilitation of bidder's due diligence, data room set up, revision of bidding documents (if necessary), solicitation of bids/proposals, questions period, bid opening and evaluation, recommendations on the award, post-bid activities, etc.
- b) Where interested bidders require it, the Financial Adviser will facilitate and support bidders in the general understanding of the applicable tariff regime and guidelines.
- c) The bidding will consist of a competitive tender process, which features will be exhaustively informed in the bidding documents. The Financial Adviser will be required to recommend a bidding structure and any bid evaluation criteria. The bidding documents will include the requirement of submission of two envelopes, a technical proposal, and a financial proposal. The Financial Adviser could propose other requirements as considered appropriate for the bidding.

- d) The Financial Adviser will include in the bidding documents the forms required to be submitted by the bidders as part of their bids.
- e) The Reference Price will be confidential, and the Privatisation Commission will instruct the Financial Adviser on who can access that information.
- f) Following bidding, Financial Adviser will be responsible to assist Privatisation Commission to obtain necessary GOP approvals and developing the requisite correspondences in this regard.

Deliverables: i) Bidding Results

ii) Approval of Bidding process/ results by the Federal Cabinet

4.4.7: Awards and Signing of Agreements

- a) The Financial Adviser will present the evaluation of the investors' bids for each DISCO to the Privatisation Commission with the ranking results according to the evaluation criteria to the Privatisation Commission /GoP for approval.
- b) The winner among the bidders approved by the GOP/Privatisation Commission will be considered preferred bidder(s) for the DISCOs and subject to approval of the Federal Cabinet will be invited for signing of Sale of Shares Agreement,
- c) The Financial Adviser is expected to assist the Privatisation Commission in negotiating with the pre-qualified bidders, if required, as per rules, The Financial Adviser will oversee the completion of all post-sale legal formalities.

4.4.8: Financial Closure

The Financial Adviser will assist the preferred bidder of the DISCOs in all aspects of the transaction that they may need for the financial closure.

- a) Financial Adviser will assist and facilitate Privatisation Commission / GOP to achieve financial closure of the deal and the successful investors.
- b) Financial Adviser will also arrange compliance with the terms of sale including transfer of sale proceeds by the successful bidder to GOP nominated accounts followed by notification of Financial Closure in the official gazette.
- c) Financial Adviser will oversee the eventual transfer through the completion of all post sale legal formalities.

Deliverable: Financial Closure.

5. Financial Advisor's Responsibilities

The responsibilities of the Financial Adviser include but are not limited to:

- a) Providing resources and services essential to meet the overall objectives of GoP based on the experience of the Financial Adviser on similar transactions / assignments and power utility experience.
- b) The activities specified in the Terms of Reference (TORs) should be viewed only as indicative, and Financial Adviser is expected to spell out a complete set of activities required to successfully conclude the activity as per best practices.
- c) Appointing a Project Director / Team Leader to assume overall responsibility of the project and to act as sole interface with Privatisation Commission, GoP and its other departments & agencies on all matters related to the transaction including legal, financial, technical etc.; and
- d) Appointing a senior level focal person for day-to-day coordination with Privatisation Commission / GoP.
- e) Developing and presenting mechanism for Project Reviews, Presentation of the Reports and other project management activities based on the Financial Adviser's experiences elsewhere on other similar transactions/privatisations
- f) Ensure that all used data / sources used by Financial Adviser are accurate & authentic.
- g) As part of the privatisation process make presentation to Privatisation Commission, Privatisation Commission Board, CCOP / Federal Cabinet, any other forum as and when requested by Privatisation Commission / GoP.
- h) Adopting most transparent course for the entire process in line with international best practices and applicable local laws and ensure maximum possible disclosure at all stages of the process.

6.GOP Responsibilities

Privatisation Commission responsibilities include but are not limited to:

1. Giving, in a timely manner, the required Government approvals to enable the Full Privatisation of the selected DISCOs;
2. Provide access to the Financial Adviser to the data and documents necessary for the preparation and successful completion of the transaction and;
3. Facilitate the Financial Adviser in obtaining necessary visas, work permits and access to the DISCOs infrastructure to complete the assignment and import equipment if required.

7.Assignment Completion

Privatisation Commission intends to issue the EOI for privatisation of all three DISCOs and complete the transaction(s) in the shortest possible time. Therefore, Privatisation Commission / GoP expects Financial Adviser to plan the activities by allocating suitable resources and where

admissible carryout the activities simultaneously, however, Privatisation Commission may in its absolute discretion decide to privatise any of three DISCOs sequentially or in a phased manner. The Financial Adviser must ensure to submit an implementation plan / timelines to complete the scope of work within the shortest possible timelines. Privatisation Commission /GoP in its absolute discretion may amend the timelines mentioned above.

ORIGINAL



**Privatisation Commission
Government of Pakistan**

**DRAFT
FINANCIAL ADVISORY SERVICES AGREEMENT**

ORIGINAL

FINANCIAL ADVISORY SERVICES AGREEMENT

This Agreement (hereinafter called the “Financial Advisory Services Agreement”) is made on the _____ day of the month of _____, 2024:

Between

The Privatisation Commission, Government of Pakistan, having its office at Constitution Avenue, Islamabad (hereinafter called the “Client”) on the one hand;
and

(name & address of the Party) (hereinafter called the “Financial Adviser”) on the other hand.

[The Client and the Financial Adviser are individually referred as Party and collectively as Parties]

WHEREAS

- (a) The Client has published the “Expression of Interest” to engage a multidisciplinary team of Experts of the Financial Adviser to provide certain services as defined in Appendix ‘A’ of this Agreement (hereinafter called the “Services”);
- (b) In response to the Expression of Interest, the Client issued the “Request for Proposal” to the shortlisted interested parties and the interested parties submitted their technical and financial proposals on the basis of which the Client selected the Financial Adviser;
- (c) The Parties represent that this Agreement constitutes binding legal obligations and the persons signing this agreement are competent and legally authorized to bind the Parties; and
- (d) The Financial Adviser represents to the Client that it, along with its Sub-Contractors, has the required professional skills, personnel, expertise and technical resources to provide the Services to perform this Agreement.

NOW THEREFORE, the Parties agree as follows:

1. The following documents attached to this Agreement shall form an integral part of the Agreement:
 - I. The General Conditions of the Agreement;
 - II. The Special Conditions of the Agreement;
 - III. Appendices:

Appendix A: Terms of Reference or Services;
Appendix B: Implementation Schedule;
Appendix C: Integrity Pact.

2. The General Conditions of the Agreement shall not be changed, and any change required in the General Conditions shall be effected through Special Condition of the Agreement.
3. The mutual rights and obligations of the Client and the Financial Adviser shall be as set forth in the Agreement, in particular:
 - (a) the Financial Adviser shall carry out the Services in accordance with the provisions of the Agreement; and
 - (b) the Client shall make payments to the Financial Adviser in accordance with the provisions of the Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed in their respective names as of the day and year first above written.

For and on behalf of Privatisation Commission

(Name & Designation)

For and on behalf of (name of the Financial Adviser)

(Name & Designation)

Witnesses:

1. _____
2. _____

I. GENERAL CONDITIONS OF THE AGREEMENT

A. GENERAL PROVISIONS

1. Definitions:

1.1 The terms used in this Agreement shall have the following meanings:

- (a) “Agreement” means the Financial Advisory Services Agreement (‘FASA’) signed between the Client and the Financial Adviser;
- (b) “Applicable Law” means means any common or customary law, constitutional law, any statute, Act, regulation, resolution, rule, ordinance, enactment, judgment, order, code, decree, directive, notification, clarification, guideline, policy, requirement or any other governmental direction having the force of law in the Islamic Republic of Pakistan.;
- (c) “Client” means Privatisation Commission (the “PC”) established under Section 3 of Privatisation Commission Ordinance, 2000;
- (d) “Consortium” means a group of body corporates or firms that have agreed to be jointly and severally responsible for the obligations under this FASA;
- (e) “Day” means a working day of the Client unless indicated otherwise in SCA;
- (f) “DISCO” or “DISCO’s” means Faisalabad Electric Supply Company, Gujranwala Electric Power Company and Islamabad Electric Supply Company;
- (g) “Effective Date” means the date on which this Agreement comes into force and effect pursuant to Clause GCA 9;
- (h) “Expert” means a key expert, non-key expert, or any other personnel of the Financial Adviser, assigned by the Financial Adviser to perform the Services or any part of Services under the Agreement;
- (i) “Federal Government” means the Government of Pakistan or GOP;
- (j) “Financial Adviser” means the external Adviser hired by the Client under the Agreement;
- (k) “Financial Closure” means as defined in SCA;
- (l) “GCA” means these General Conditions of Agreement;
- (m) “Local Currency” means Pakistani Rupees or PKR;

- (n) “Nominee” means a legal entity authorized by the Financial Adviser and approved by the Client for the purpose of receiving payments due to the Financial Adviser under this Agreement or parts thereof and specified in the SCA;
- (o) “Party” means the Client or the Financial Adviser, and “Parties” mean both of them;
- (p) “SCA” means the Special Conditions of Agreement by which the GCA may be amended or supplemented but not over-written;
- (q) “Services” means the work to be performed by the Financial Adviser pursuant to the Agreement described in **Appendix-A**;
- (r) “Sub-Contractor” means an entity to whom the Financial Adviser sub-contracts any part of the Services while remaining responsible for the performance of the Agreement;
- (s) “Success Fee” means the amount to be paid by the Client to the Financial Adviser on a financial closure as defined in the SCA;
- (t) “Third Party” means any person or entity other than the Sub-Contractor engaged by the Financial Adviser for performance of Services under the FASA;
- (u) “Transaction” means as defined in Terms of Reference (ToRs) and SCA.

2. Relationship

between the Parties

2.1. Nothing contained in the Agreement shall be construed as establishing a relationship of master and servant or of principal and agent as between the Client and the Financial Adviser. The Financial Adviser, subject to the Agreement, has complete charge of the Experts and Sub-Contractors performing the Services and shall be responsible for the Services performed by an Expert or a Sub-Contractor.

3. Law Governing Agreement

3.1. The Agreement, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

4. Language

4.1. This Agreement has been executed in the language specified in the SCA, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of the Agreement.

5. Headings

5.1. The headings shall not limit, alter or affect the meaning of this Agreement.

6. Communications

6.1. Any communication required or permitted to be given or made under the Agreement shall be in writing in the language specified in Clause GCA 4. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCA.

6.2 A Party may change its address for notice under the Agreement by giving the other Party notice of such change at the address specified in the SCA.

7. *Authorized Representatives*

7.1 Any document required or permitted to be executed under this Agreement by the Client or the Financial Adviser shall be executed by the individuals in accordance with the SCA.

8. *Corrupt and Fraudulent Practices*

8.1 The Client requires compliance with its policy in regard to corrupt and fraudulent practices. In pursuance of this policy, the Client:

(a) defines, for the purpose of this paragraph, the term ‘corrupt and fraudulent practice’ as follows:

“corrupt and fraudulent practice” includes the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official or the supplier or contractor in the procurement process or in contract execution to the detriment of the Client; or misrepresentation of facts in order to influence a procurement process or the execution of a contract, collusive practices among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Client of the benefits of free and open competition and any request for, or solicitation of anything of value by any public official in the course of the exercise of his duty;

(b) may terminate the Agreement if it determines that the Financial Adviser has, directly or through an agent, engaged in a corrupt or fraudulent practice, or any collusive or coercive practice in competing for the Agreement; and

(c) may sanction, including declaring the Financial Adviser ineligible, either indefinitely or for a stated period of time, to be awarded any agreement of the Client if, at any time, it determines that the Financial Adviser has, directly or through an agent, engaged in corrupt or fraudulent practice, or collusive or coercive practice in competing for, or in executing, the Agreement.

B. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF AGREEMENT

9. *Effectiveness of Agreement*

9.1 This Agreement shall come into force and become effective upon signing by both the Parties.

10.

NIL

11. *Commencement of Services*

11.1 The Financial Adviser shall confirm availability of key Experts or professional staff and begin carrying out the Services no later than the dates specified in the SCA.

12. Expiration and Duration of Agreement

12.1 Unless terminated earlier pursuant to Clause GCA 17, this Agreement shall remain valid till such time period as specified in the SCA.

12.2 The Financial Adviser shall perform the Services within the time set out in the implementation schedule (**Appendix-B**) and subject to Clause 11 of the GCA.

13. Entire Agreement

13.1 This Agreement contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth in the Agreement, except under the Conditions mentioned in SCA.

14. Modifications or Variations

14.1. Any modification or variation of the terms and conditions of the Agreement, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties.

15. Force Majeure

a. Definition

15.1 For the purposes of Clause CGA 15, “Force Majeure” means an event which is beyond the control of a Party, is not foreseeable, is unavoidable, and makes a Party’s performance of its obligations under the Agreement impossible or so impractical as to be considered impossible under the circumstances, and subject to those requirements, includes war, riots, civil disorder, earthquake, fire, explosion, unexpected flood or other unusual adverse weather conditions, strikes, lockouts or other industrial action, confiscation or any other action by a Government agency.

15.2 Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party’s Expert or professional staff, Sub-Contractor or agent or employee, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Agreement, and avoid or overcome in the carrying out of its obligations under the Agreement.

15.3 Force Majeure shall not include insufficiency of funds or failure to make any payment required under the Agreement.

b. No breach of Agreement

15.4 The failure of a Party to fulfill any of its obligations under the Agreement shall not be considered to be a breach of, or default under, the Agreement in so far as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of fulfilling the terms and conditions of the Agreement.

c. Measures to be Taken

15.5 A Party affected by an event of Force Majeure shall continue to perform its obligations under the Agreement as far as it is reasonably practical and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

15.6 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than seven (07) days following the occurrence or first occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible and in any case not later than three (03) days following the restoration of normal conditions.

15.7 Any period within which a Party shall, pursuant to this Agreement, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

15.8 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Financial Adviser, upon instructions from the Client, shall either:

- (a) demobilize, in which case the Financial Adviser shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Client, in reactivating the Services; or
- (b) continue with the Services to the extent reasonably possible, in which case the Financial Adviser shall continue to be paid under the terms of the Agreement.

15.9 In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses GCA 33 & 34.

16. Suspension

16.1 The Client may, by written notice of suspension to the Financial Adviser, suspend all payments if the Financial Adviser fails to perform any of its obligations under the Agreement, including the carrying out of the Services. The notice of suspension shall: (i) specify the nature of the failure; and (ii) request the Financial Adviser to remedy such failure within a period not exceeding fifteen (15) days after receipt by the Financial Adviser of such notice of suspension.

17. Termination

17.1 A Party may terminate the Agreement as per provisions set out below.

a. By the Client

17.1.1. The Client may terminate this Agreement in case of the occurrence of any of the events specified in paragraphs (a) to (f) of this Clause. In such an occurrence, the Client shall give prior written notice of termination to the Financial Adviser: (i) in case of the events referred to in paragraphs (a) to (d); at least thirty

(30) days' written notice; and (ii) in case of the event referred to in paragraph (e) and (f) at least five (5) days' written notice.

- (a) If the Financial Adviser fails to remedy a failure in the performance of its obligations under the Agreement, as specified in a notice of suspension pursuant to Clause GCA 16.
- (b) If the Financial Adviser becomes (or, if the Financial Adviser consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreement with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary.
- (c) If the Financial Adviser fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCA 34.
- (d) If, as the result of Force Majeure, the Financial Adviser is unable to perform a material portion of the Services for a period of not less than thirty (30) days.
- (e) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate the Agreement.
- (f) If the Financial Adviser fails to confirm availability of Key Experts or professional staff as required under Clause GCA 11.

17.1.2. If the Client determines that the Financial Adviser has engaged in corrupt or fraudulent practice, or collusive, coercive or obstructive practice, in competing for or in executing the Agreement, the Client may, after giving fourteen (14) days written notice to the Financial Adviser, terminate the Agreement.

**b. By the
Financial
Adviser**

17.1.3. The Financial Adviser may terminate this Agreement, by not less than thirty (30) days' written notice to the Client, in case of the occurrence of any of the events specified in paragraphs (a) to (d) of this Clause.

- (a) If the Client fails to pay any money due to the Financial Adviser pursuant to the Agreement and not subject to dispute pursuant to Clause GCA 34 within forty-five (45) days after receiving written notice from the Financial Adviser that such payment is overdue.
- (b) If, as the result of Force Majeure, the Financial Adviser is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

- (c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCA34.
 - (d) If the Client is in material breach of its obligations pursuant to the Agreement and has not remedied the same within forty-five (45) days.
- c. **Cessation of Rights and Obligations**

17.1.4. Upon termination of the Agreement pursuant to Clauses GCA 10 or GCA 17, or upon expiration of this Agreement pursuant to Clause GCA 12, all rights and obligations of the Parties under the Agreement shall cease, except: (i) such rights and obligations as may have accrued on the date of termination or expiration; (ii) the obligation of confidentiality set forth in Clause GCA 20; and (iii) any right which a Party may have under the Applicable Law.
- d. **Cessation of Services**

17.1.5. Upon termination of the Agreement by notice of either Party to the other Party pursuant to Clauses GCA 17a or GCA 17b, the Financial Adviser shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum.
- e. **Payment upon Termination**

17.1.6. Upon termination of the Agreement, the Client shall make the following payments to the Financial Adviser:

 - (a) payment for Services satisfactorily performed prior to the effective date of termination; and
 - (b) in the case of termination pursuant to paragraphs (d) and (e) of Clause GCA 17.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Agreement, including the cost of the return travel of the Experts or professional staff.

C. OBLIGATIONS OF THE FINANCIAL ADVISER.

18. General

- a. **Standard of Performance**

18.1 The Financial Adviser shall perform and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices. The Financial Adviser shall always act, in respect of any matter relating to the Agreement or to the Services, as a faithful adviser to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with the third parties.

18.2. The Financial Adviser shall employ and provide such qualified and experienced Experts or professional staff and Sub-Contractors as are required to carry out the Services.

- b. **Law Applicable to Services** 18.3. The Financial Adviser shall perform the Services in accordance with the Agreement and the Applicable Law and shall take all practicable steps to ensure that its Expert, professional staff and Sub-Contractor comply with the Applicable Law.

19. Conflict of Interests 19.1. The Financial Adviser shall hold the Client's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or its own corporate interests.

- a. **Prohibition of Conflicting Activities** 19.1.1 The Financial Adviser shall not engage, and shall cause its Experts, professional staff and Sub-Contractors not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under the Agreement.

- b. **Strict Duty to Disclose Conflicting Activities** 19.1.2 The Financial Adviser has an obligation and shall ensure that its Experts, professional staff and Sub-Contractors shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the Client, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Financial Adviser or the termination of the Agreement.

20. Confidentiality 20.1 Except with the prior written consent of the Client, the Financial Adviser and its Experts, professional staff and Sub-Contractors shall not, at any time, communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Financial Adviser, the Experts, professional staff and Sub-Contractors make public the recommendations formulated in the course of, or as a result of, the Services.

21. Liability of the Financial Adviser 21.1 Subject to additional provisions, if any, set forth in the SCA, the Financial Adviser liability under the Agreement shall be governed by the Applicable Law.

22. Reporting Obligations 22.1 The Financial Adviser shall submit to the Client the reports, documents and information as specified in SCA.

23. Proprietary Rights of the Client in Reports and Records 23.1 Unless otherwise indicated in the SCA, all reports and relevant data and information such as plans, databases, other documents and software, supporting records or material compiled or prepared by the Financial Adviser for the Client in the course of the Services shall be confidential and become and remain the absolute property of the Client.

D. EXPERT AND SUB-CONTRACTOR

24. Replacement of key Experts or Sub-Contractors 24.1 Except as the Client may otherwise agree in writing, the Financial Adviser shall not make any change in the key Experts, professional staff or Sub-Contractors mentioned in the Agreement.

24.2 Notwithstanding the above, the substitution of a key Experts, professional staff or Sub-Contractors during Agreement execution may be considered only based on the Financial Adviser's written request and due to circumstances outside the reasonable control of the Financial Adviser. In such case, the Financial Adviser shall forthwith provide a replacement acceptable to the Client.

25. Removal of key Experts or Sub-Contractors

25.1 If the Client finds that any of the key Experts, professional staff or Sub-Contractors has committed misconduct or has been charged with having committed an offence, or an Expert, professional staff or Sub-Contractor has engaged in corrupt or fraudulent practice, or collusive, coercive or obstructive practice while performing the Services, the Financial Adviser shall, at the Client's written request, provide a replacement within the time stipulated by the Client.

25.2 In the event that any of the Expert, professional staff or Sub-Contractor is found by the Client to be incompetent or incapable in discharging assigned duties, the Client, specifying the grounds therefore, may request the Financial Adviser to provide a replacement.

25.3 Any replacement of the removed Expert, professional staff or Sub-Contractor shall possess equal or better qualifications and experience and is acceptable to the Client.

25.4 The Financial Adviser shall bear all costs arising out of or incidental to any removal and/or replacement of an Expert or professional staff or Sub-Contractor.

E. OBLIGATIONS OF THE CLIENT

26. Assistance and Exemptions

26.1 Unless otherwise specified in the SCA, the Client shall use its best efforts to:

- (a) assist the Financial Adviser by providing requisite information or documents as are necessary to enable the Financial Adviser to perform the Services.
- (b) provide to the Financial Adviser any other assistance as is specified in the SCA.

27. Payment Obligation

27.1 In consideration of the Services performed by the Financial Adviser under this Agreement, the Client shall make such payments to the Financial Adviser for the deliverables as specified in SCA.

F. PAYMENTS TO THE FINANCIAL ADVISER

28. Agreement Price

28.1 The Agreement price is fixed and is set forth in the SCA.

28.2 Any change to the Agreement price specified in Clause 28.1 can be made only if the Parties have agreed to the revised scope of Services pursuant to Clause GCA 14 and have amended in writing the Terms of Reference in **Appendix A**.

29. Taxes and Duties

29.1 The Financial Adviser is responsible for meeting the tax liabilities arising out of the Agreement, as per Applicable Laws.

30. Currency of Payment

30.1 Any payment under the Agreement shall be made in the currencies specified in SCA.

31. Mode of Billing and Payment

31.1 The total payments under this Agreement shall not exceed the Agreement price set forth in Clause GCA 28.1.

31.2 The payments under this Agreement shall be made in the following manner:

- (i) lump-sum payment shall be paid against deliverables as per implementation schedule comprising remuneration;
- (ii) out of pocket expenses shall be paid on lump-sum basis against deliverables along with remuneration or as per actual expenses (within the limit fixed in SCA) against receipts or bills specified in the SCA; and
- (iii) Success Fee shall be paid upon Financial Closure of each individual DISCO separately.

31.2.1 The Financial Adviser shall perform the tasks and complete the milestones within the time frame mentioned in the implementation schedule. The Client shall convey its approval of a deliverable within the period specified in SCA.

31.2.2 On receipt of approval of deliverable from the Client, the Financial Adviser shall submit verified invoice against the approved deliverable and the Client shall make payment within thirty (30) Days of receipt of the invoice.

31.2.3 In case there is a delay in verification of the deliverable by the Client due to the reasons conveyed in writing to the Financial Adviser, the Client may make a part payment against the deliverable as specified in SCA. In any such eventuality, the verification of a deliverable by the Client shall not exceed forty-five (45) Days.

31.2.4 If a deliverable is found unsatisfactory, the Client shall convey its observations with remedial measures to the Financial Adviser. The Client shall ensure that all of its observations on the deliverable are conveyed to the Financial Adviser in a consolidated form and not in a piecemeal manner. The Financial Adviser shall, within the period specified in SCA, submit the revised deliverable to the Client.

31.2.5 The Financial Adviser shall ensure that a deliverable submitted is in line with this Agreement before submission to the Client. In case of any payment required under SCA to be made directly to Financial Advisor, Sub-Contractor or its Nominee, the

Financial Adviser shall verify its invoices, invoices of its Nominee and the Sub-Contractor before submission to the Client.

31.2.6 All payments under the Agreement shall be made to the accounts of the Financial Adviser or its Nominee or a Sub-Contractor as specified in the SCA.

31.2.7 With the exception of the final payment under Clause GCA 31.2.2 above, payments do not constitute acceptance of the whole Services nor relieve the Financial Adviser of any obligations under the Agreement.

G. FAIRNESS AND GOOD FAITH

32. Good Faith

32.1 The Parties undertake to act in good faith with respect to each other's rights under the Agreement and to adopt all reasonable measures to ensure the realization of the objectives of the Agreement.

H. SETTLEMENT OF DISPUTES

33. Amicable Settlement

33.1 The Parties shall seek to resolve any dispute amicably by mutual consultation.

33.2 If either Party objects to any action or inaction of the other Party, the objecting Party may serve a written notice of dispute to the other Party providing in detail the dispute and the basis of the dispute. The Party receiving the notice of dispute will consider it and respond in writing within fourteen (14) Days after its receipt. If the other Party fails to respond within fourteen (14) Days, or the dispute cannot be amicably settled within fourteen (14) Days following the response of the other Party, Clause GCA 34 shall apply for resolution of dispute.

34. Dispute Resolution

34.1 Any dispute between the Parties arising under or related to the Agreement that cannot be settled amicably may be referred to by either Party to arbitration in accordance with the Arbitration Rules of the London Court of International Arbitration through appointment of three arbitrators under those rules. Each Party shall appoint one arbitrator while the Parties shall jointly appoint the third arbitrator who shall act as presiding arbitrator. In case of dispute on the appointment of third arbitrator, any Party may submit an application to the Chief Justice of Islamabad High Court for appointment of the third arbitrator and decision of the Chief Justice shall be final and binding on the Parties.

34.2 The arbitration shall take place in Islamabad or any other suitable place, agreed between the Parties. The language of the arbitration proceedings shall be English. The award shall be final and binding on the Parties.

34.3 The Parties agree that the Courts at Islamabad or any other suitable place, agreed between the Parties, shall have exclusive

jurisdiction with respect to the enforcement of an award or any litigation relating to or arising out of the Agreement.

34.4 In case of conflict between the provisions of the Arbitration Rules of the London Court of International Arbitration and the Arbitration Act 1940, the Court in Islamabad or any other suitable place, agreed between the Parties, shall apply the Arbitration Rules of the London Court of International Arbitration relating to arbitration proceedings and for enforcement of the award.

34.5 In case of any dispute arising out of the performance of the Services with respect to one (1) DISCO, the Services in respect of the other DISCO(s) shall continue to be performed by the Financial Adviser unless notified otherwise by the Client.

35. Indemnification

I. MISCELLANEOUS

35.1 The Financial Adviser shall indemnify, protect and defend at Financial Adviser's own expense, the Client, its Chairman, Secretary, members, consultants, officers and employees, from and against any and all actions, claims, losses, damages or liabilities of a Third Party arising out of any act by the Financial Adviser, its Expert or professional staff, Sub-Contractor or employee to the extent that such fault is finally determined by a court or arbitral tribunal to have resulted from any act of the Financial Adviser, its Expert or professional staff, Sub-Contractor or employee.

35.2 If any action, suit, proceeding or investigation is commenced, as to which the Client propose to demand indemnification, the Client shall not, without the prior written consent of the Financial Adviser, settle or compromise any claim, or permit a default or consent to the entry of any judgment in respect thereof, unless such settlement, compromise or consent includes, as an unconditional term thereof, the giving by the claimant to the Financial Adviser of an unconditional and irrevocable release from all liability in respect of such claim. To the extent of any settlement, compromise or consent which requires payment to be made by the Client to the claimant, the Financial Adviser's liability hereunder shall continue to subsist.

35.3 The Financial Adviser shall, at its own cost and expense, upon request of the Commission, re-perform the Services in the event of Financial Adviser's failure to exercise the skill and care required under the Agreement.

35.4 The Client undertakes to keep the Financial Adviser, its Expert or professional staff, Sub-Contractor or employee indemnified from and against any losses, claims, damages or liabilities of a Third Party related to, arising out of any act by the Client to the extent that such fault is finally determined by a court or arbitral tribunal to have resulted from any act of the Client, its consultant or employee.

35.5 The Financial Adviser's or Client's aggregate civil liability to each other under this Agreement shall not exceed the amount of remuneration fees fixed under the Agreement.

36. Insurance

36.1 The Client undertakes no responsibility in respect of any life, health, accident, travel and other insurance, which may be necessary or desirable for the personnel of the Financial Adviser, including Experts and Sub-Contractors, nor for any members of any family of any such person.

37. Integrity Pact

37.1 The Parties are bound by the Integrity Pact (**Appendix-C**) and acknowledge the terms and conditions of the Integrity Pact.

38. Severability

38.1 If any provision of the Agreement is rendered invalid or unenforceable then: (i) to the fullest extent permitted by the Applicable Law, the other provisions of the Agreement shall remain in full force and effect and the Parties agree to carry out the agreements contained herein to give effect as near as possible to the original intention of the invalid or unenforceable provision; and (ii) the invalidity or unenforceability of any provisions of the Agreement shall not affect the validity or enforceability of such provision in any other jurisdiction.

ORIGINAL

II. SPECIAL CONDITIONS OF THE AGREEMENT

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Agreement
1.1(b) and 3.1	The Agreement shall be construed in accordance with the laws of the Islamic Republic of Pakistan.
1.1(j)	“Financial Closure” means the transfer of sale proceeds by the successful bidder to GOP nominated accounts and the corresponding transfer of the ownership of respective DISCO pursuant to the Sales Agreement executed by the GOP or its nominated entity with the successful bidder.
1.1 (n)	List of Nominees
1.1 (s)	“Success Fee” means the amount to be paid by the Client to the Financial Adviser upon the successful Financial Closure based on fixed percentage of sales proceeds received by the Commission/GOP or any of its nominated entities for each individual DISCO separately.
1.1 (u)	“Transaction” means the Private Sector Participation in three (3) DISCOs, namely FESCO, GEPCO & IESCO through privatisation.
4.1	The language is: English.
6.1 and 6.2	<p>The addresses are:</p> <p>Client: <u>Privatisation Commission, Government of Pakistan</u> Attention: <u>Director General (I&T/P&U)</u> Address: <u>4th Floor, Kohisar Block, New Pak Secretariat, Constitution Avenue, Islamabad, Pakistan.</u> Telephone: <u>+92(51)-9204593</u> Fax: <u>+92(51)-9203076</u> Email: <u>dgitpu@privatisation.gov.pk</u></p> <p>Financial Adviser: [•] Attention: [•] Address: [•]</p>
7.1	<p>The Authorized Representatives are:</p> <p>For the Client: [•] For the Financial Adviser (<i>Name & Designation</i>) [•]</p>
11.1	(i) The Services with respect to Phase I shall commence upon signing of the FASA.

	<p>(ii) The Services under Phase II and onwards for each DISCO shall commence on such date and in such sequence as the Client may specify by a written notice to proceed given to the Financial Adviser.</p> <p>(iii) The Client may, at its sole discretion, require commencement of the Services for all three (3) DISCOs simultaneously.</p>																																																							
12.1	Unless terminated earlier pursuant to Clause 17 of GCA, this Agreement is valid for a period of thirty-six (36) months from the Effective Date unless extended in writing through mutual consent of the Parties.																																																							
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27.1 & 31.2	<p>The Payment Schedule:</p> <p>Out of pocket Expense US\$</p> <p>The out-of-pocket expenses, (lump-sum or as per actual) shall consist of following in nature, where relevant, and be reasonably incurred by the Financial Advisor its Sub-Contractor(s) in the performance of the Services:</p> <ul style="list-style-type: none"> a) Hotel and subsistence costs including meal, which is actually incurred and based on corporate rates including cost of telephone and faxes; b) The cost of international and domestic transportation of the personnel by the most appropriate means of transport and the most direct practicable route including road shows; c) Miscellaneous travel expenses such as the cost of the transportation to and from airports, taxis, passport, visas, travel permits, vaccination; d) Cost to be incurred in communication plan; 																																																							

	<p>e) Cost to be incurred for establishment of Virtual Data Room etc.;</p> <p>f) Cost of marketing activities/ roadshows/bidding, including publication of EOIs for investors etc.;</p> <p>g) Above mentioned items are indicative, any other costs directly associated to the assignment may also be included, where deemed appropriate for the completion of the Transaction; and</p> <p>h) Cost of items not covered in the foregoing but which may be incurred or will be incurred by the Financial Adviser for completion of the Services, subject to the authorization of the Client.</p> <p>The Financial Adviser shall account for all out-of-pocket expenses associated with successful accomplishment of the Transaction.</p>
30.1	Payment shall be made to the Financial Adviser in US\$ and or PKR as specified by the Financial Adviser.
31.2.1	Approval of Deliverables: The Client shall convey its approval or otherwise of deliverables within [●] Days of submission.
31.2.3	The Client may make part payment of up to [●] of the payment due against the deliverable.
31.2.4	Submission of Deliverables: The Financial Adviser shall submit the revised deliverable to the Client within [●] days.
31.2.6	<p>The accounts are:</p> <p>for Local currency: _____</p> <p>_____</p> <p>_____</p> <p>for Foreign currency: _____</p> <p>_____</p> <p>_____</p>

TERMS OF REFERENCE

ORIGINAL

IMPLEMENTATION SCHEDULE

ORIGINAL

INTEGRITY PACT

Agreement Number: _____ Dated: _____
Agreement Value: _____
Agreement Title: _____

_____ (Name of Financial Adviser (FA)) hereby declares that it has not obtained or induced the procurement of any contract, right, interest, privilege or other obligation or benefit from Client or any employee or consultant thereof any other entity owned or controlled by the Client or GOP through any corrupt business practice.

Without limiting the generality of the foregoing, FA represents and warrants that it has fully declared the brokerage, commission, fees etc. paid or payable to anyone and not given or agreed to give and shall not give or agree to give to anyone within or outside Pakistan either directly or indirectly through any natural or juridical person, including its affiliate, agent, associate, broker, consultant, director, promoter, shareholder, sponsor or subsidiary, any commission, gratification, bribe, finder's fee or kickback, whether described as consultation fee or otherwise, with the object of obtaining or inducing the procurement of a contract, right, interest, privilege or other obligation or benefit in whatsoever form from GOP, except that which has been expressly declared pursuant hereto.

FA certifies that it has made and will make full disclosure of all agreement and arrangements with all persons in respect of or related to the Transaction with Client and has not taken any action or will not take any action to circumvent the above declaration, representation or warranty.

FA accepts full responsibility and strict liability for making any false declaration, not making full disclosure, misrepresenting facts or talking any action likely to defeat the purpose of this declaration, representation and warranty. It agrees that any contract, right, interest, privilege or other obligation or benefit obtained or procured as aforesaid shall, without prejudice to any other right and remedies available to Client under any law, contract or other instrument, be voidable at the option of Client.

Notwithstanding any rights and remedies exercised by Client in this regard, FA agrees to indemnify Client for any loss or damage incurred by the Client on account of corrupt business practice of FA and further pay compensation to Client in an amount equivalent to ten times the sum of any commission, gratification, bribe, finder's fee or kickback given by FA as aforesaid for the purpose of obtaining or inducing the procurement of any contract, right, interest, privilege or other obligation or benefit in whatsoever form from Client.

Client

FA
