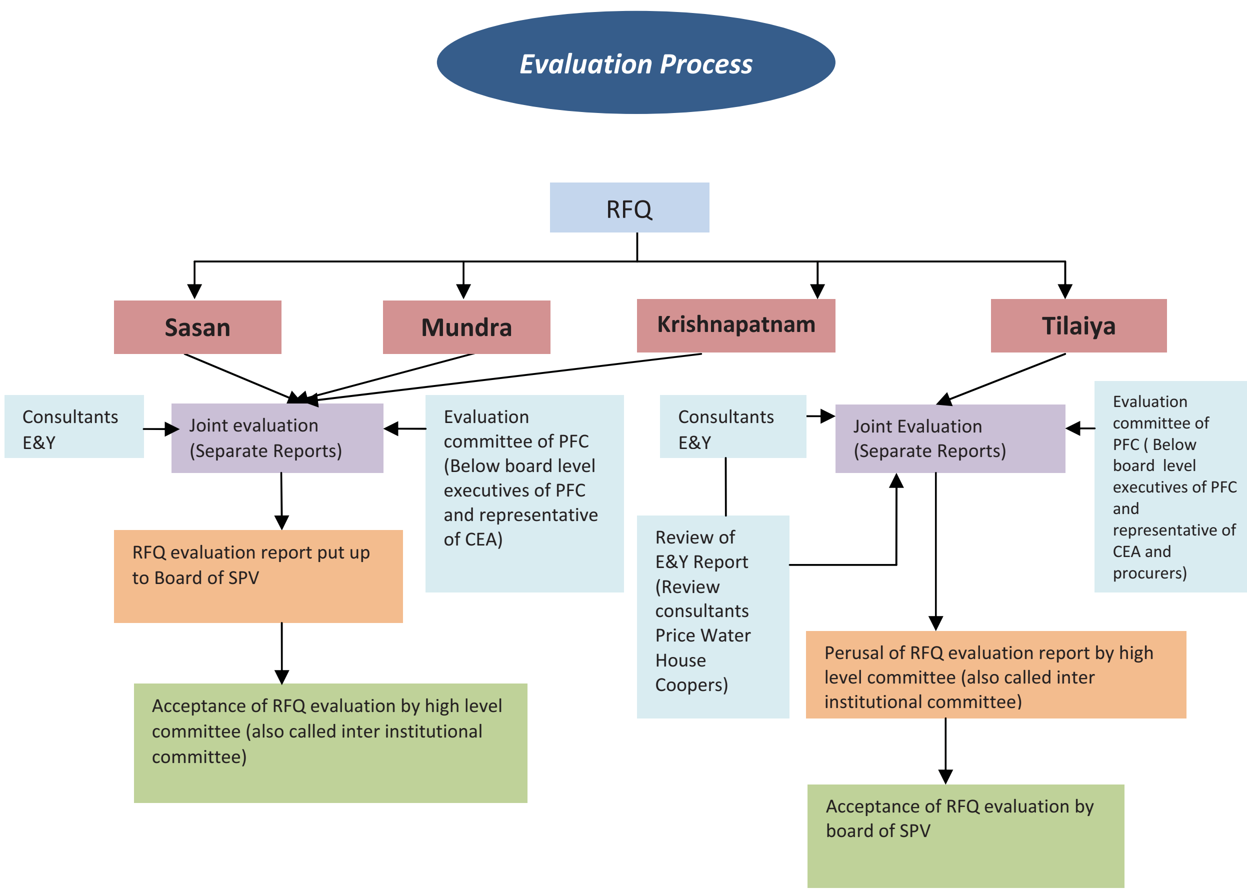
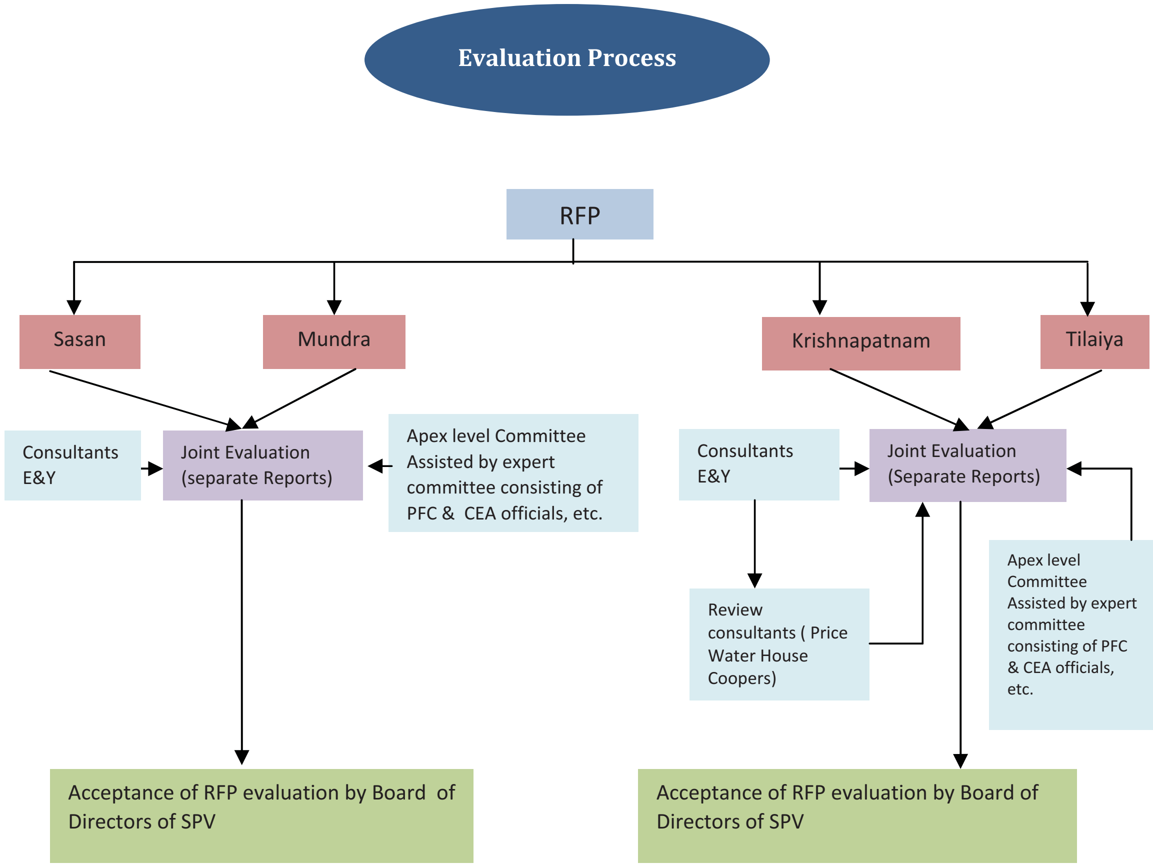
CHAPTER - 4

Bid Evaluation

4.1 Gaps in Bid Evaluation Process

A hierarchy of Committees comprising professional consultants, PFC executives and independent experts conducted evaluation of bids both at RFP and RFQ stages. The flow chart of the evaluation process is given below:





Audit observed the following deficiencies in bid evaluation:

4.2 Fulfillment of qualifying criteria by selected bidder

As per the minimum technical qualifying criteria stipulated in the RFQ document, the bidder must meet technical requirement of having experience of developing projects (not necessarily in the power sector) in the last 10 years whose aggregate capital cost must not be less than ₹3000 crore. Out of these projects, the capital cost of at least one project should be equivalent to or more than ₹500 crore.

The Bidding Company or a Consortium Member (including Lead Member) can take 100 per cent benefit of the technical and financial capability of a Parent or its Affiliates for the purpose of Bid Evaluation by submitting a legally binding undertaking[11] supported by a Board resolution in the RFP stage from its Parent company or its Affiliates.

[11] ***The undertaking to be given was that all the equity investment obligations of the Bidding Company or the Member of the Consortium shall be deemed to be equity investment obligations of the parent company or its affiliates and in the event of any default the same shall be met by the parent company or its affiliates.***

Audit observed that the initial RFQ document for Sasan and Mundra UMPP did not define the term ‘developing project’ and subsequent to the pre-bid conference, ‘developing project' was defined as 'successful commissioning of a project in which the bidder held equity stake of not less than 26 per cent at the time of commissioning.’

While the definition for ‘developing project’ remained the same for Krishnapatnam UMPP, it was revised for Tilaiya UMPP, as ‘developing project means successful commissioning of a project in which the bidder held equity stake of not less than 26 per cent from financial closure till commissioning’. Audit observed that fulfillment of these qualifying requirements were not verified during bid evaluation as discussed in subsequent paras:

(i) Failure to check admissibility of experience claimed

Reliance Power Limited (REGL[12] at the time of bid submission) claimed the following experiences in its bid responses for the four UMPPs namely Sasan, Mundra, Krishnapatnam and Tilaiya:

In case of Sasan and Mundra, RPL claimed an experience of ₹ 4416.60 crore (aggregate capital cost) which also included (i) Generation, Transmission & Distribution (T&D) Projects executed by the parent company i.e. REL, (ii) Distribution Projects pertaining to two affiliate companies[13] and (iii) Augmentation of T&D network of three Odisha Distribution Companies[14]. In case of Krishnapatnam and Tilaiya Projects, RPL claimed an experience of ₹ 3430.21 crore and ₹3505.41 crore respectively which included Generation, Transmission & Distribution (T&D) Projects executed by the parent company. Audit noted that major part of the experiences claimed by RPL were based on additions to the fixed assets instead of capital expenditure pertaining to projects commissioned during the last 10 years. RPL did not furnish details of such Projects. Audit also noticed that in the case of Sasan UMPP, despite agreeing (14 June 2007) to furnish the details of the commissioned Projects, RPL did not furnish the details before issuance of LOI on 1 August 2007. The required details were neither furnished by RPL nor asked for by the various evaluation committees in the case of Krishnapatnam and Tilaiya Projects as well.

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[12] *REGL – Reliance Energy Generation Limited*

[13] *BSES Yamuna Power Limited and BSES Rajdhani Power Limited*

[14] *Western Electrical Supply Co. of Orissa Limited, Northern Electrical Supply Co. of Orissa Limited and Southern Electrical Supply Co. of Orissa Limited*

The Bid Process management consultant M/s. E&Y in its factual note on Sasan Project has also mentioned that the experience of REL and Affiliates pertained to ongoing projects. Therefore, out of total experience claimed by RPL, the experience of ₹ 3123.88 crore (Sasan & Mundra), ₹ 2137.49 crore (Krishnapatnam) and ₹ 2254.61 crore (Tilaiya) may not conform to the stipulated qualifying requirements as detailed in ***Annexure 2.*** Thus, the bid evaluation process was completed and LOI issued to RPL in case of all three projects (Sasan, Krishnapatnam and Tilaiya) without verifying the admissibility of experience claimed by RPL.

Ministry in its reply stated (March 2012) that the kind of projects which are eligible was not specified in the Standard Bidding Document. Land, building, plant and machinery, vehicle, furniture and fixtures, electric fittings and apparatus, refrigerators etc. form integral part of project cost and hence they were capitalized in the books of accounts of respective companies as fixed asset and these figures were taken (for evaluation).

It is unlikely that the expenditure incurred in the last 10 years would pertain to projects commissioned prior to this period, since capitalization of any project will be based on actual expenditure incurred so far along with the liabilities/likely expenditure of the project. Further, as a conservative approach, expenditure incurred on plant & machinery, GIS Software and distribution system can be considered. Regarding experiences of affiliates, Ministry stated that *expenditure incurred on transformers, switchgears, underground and overhead cables etc. can be considered for qualification.*

The reply of the Ministry is not tenable in view of the following:

- In the absence of details of Projects-wise expenditure incurred by RPL for projects commissioned during the last 10 years, the additions to fixed assets, claimed by RPL as experience may also be due to (i) additional capital cost incurred on projects commissioned more than 10 years back, (ii) individual completed assets of ongoing projects, (iii) assets not forming part of any particular project or (iv) additional capitalizations on projects separately considered for qualification.

- The Auditor's certificate submitted by RPL with the bid gives only project cost incurred in generation and up-gradation of transmission and distribution network etc. during April 1996 to March 2006 by Reliance Energy Limited without mentioning the names of the projects which were commissioned during the last ten years and capital costs of such individual projects.

- Having defined, the term 'developing project', it was not proper to allow the capital cost on account of plant & machinery, GIS Software etc. without verifying whether these pertained to projects commissioned during the last 10 years.

- Ministry's argument regarding experience of affiliates is not acceptable since the consultants had stated that these pertain to ongoing works.

(ii) Role of Consultants & Evaluation Committees

The Consultants M/s. E&Y did not carry out independent diligence for evaluation of experience claimed by the bidders. Evaluation Committee members who were required to jointly conduct the evaluation of bids placed reliance on the evaluation done by the consultants M/s. E & Y. In case of Sasan UMPP, even the disclaimer of the Evaluation Committee that 'no independent diligence has been carried out for the purpose of evaluation' was merely adopted from the Consultant's Evaluation Report. The Committees also failed in preventing the above shortcomings in the bid evaluation.

Ministry stated (December 2011 and March 2012) that administrative action by way of advisory memos was issued to the three PFC executives. Ministry also stated that showcause notice was issued to M/s. E&Y for their omission and commission in the evaluation of bid documents and PFC debarred them for a period of three years.

Audit is of the view that the bidding process should be strengthened by laying down well defined procedure for evaluation of bid responses as well as acceptance of evaluation proposals.

4.3 Excess acquisition of land

CEA finalized its report on land requirements for thermal power plants only in December 2007 though the process of UMPPs started in 2005 itself. Audit observed that when compared to the new norms, the land agreed for two UMPPs was in excess by 2634 acres (Mundra: 1538 acres and Krishnapatnam: 1096 acres) as detailed in **Annexure 3.** The issue of excess land was deliberated in the EGOM meeting held in May 2008 wherein it was decided that since the land requirement had already been worked out in respect of these projects, it was now up to the Project Developers themselves to take a view on excess land thus agreed upon. Further it was decided that land requirement for yet to be awarded UMPPs be worked out by CEA based on its report.

Ministry replied (December 2011 and March 2012) that land requirement for UMPPs was estimated on the basis of prevalent norms for thermal power projects and CEA constituted a committee in April 2007 to optimize land requirement for thermal power plants in view of large capacity to be added in the XI Plan. The committee submitted its report in December 2007 and the issue was again revisited and another report circulated in September 2010. The Ministry further added that extra land, if available, could be used for power generation purpose in future.

As per CEA's new norms, land requirement for coastal power plant of the size of around 4000 MW is 1530 acres. Therefore, the usage of excess land should be monitored to ensure usage in power projects/benefit to consumers.