

Clarification regarding Release of Payment by Utility to IT Implementing Agency under RAPDRP, Part-A Projects

PFC has received requests from various IT implementing agencies regarding the payment due against the work carried out and milestones achieved by them so far. These clarifications are issued so that utilities may use their obligations towards making of the payments due to ITIA as per provisions in the contract, which shall help in ITIA's fund flow for the project and in turn expedite the implementation of the program.

Clarification on Release of Payment to ITIA & operating payment Clause of Model Rfp:

- a) Clause 14.3 (Terms of payment) under RFP Section-VII, General conditions of contract states as: "Payments shall be made promptly by the Purchaser, no later than forty five (45) days after submission of an invoice or request for payment by the Supplier, and the Purchaser has accepted it."
- b) Further, GCC14.1 (5) under RFP Section-VIII, Special conditions of contract states as: "Payments against invoice submitted (accompanied with all requisite documents) shall be released within 45 days of submission of invoice."
- c) In view of above clauses of ITIA Contracts awarded by various utilities, it is hereby clarified that utilities should release the payment due to the ITIA as per contract provisions for the goods and services rendered by them. This shall assist IT implementing agencies in proper fund flow and in turn expedite the implementation of the project.
- d) In case of splitting of an ITIA contract into multiple numbers of contacts (i.e. cases of more than one distribution companies in a state), various milestone based payments against achievement of common milestones e.g. milestones related with Data center, Disaster recovery center activities, corresponding payments are required to be released to ITIA simultaneously by each of the utility based upon certification/documentation by the hosting utility for corresponding IT infrastructure.

Example: 15% of Project management cost shall be released by each utility after completion of User Acceptance testing of Data Center. For this the payable amount shall be the corresponding values of Project management cost against each individual contract in utilities, which is to be released by each of the utility after completion of this milestone and certification/documentation by utility hosting the Data center; and similarly for other cases.

- e) Utility can also utilize the provisions of the clause GCC14.1(9) available in the contract under RFP Section-VIII, Special Conditions of contract for making payment to ITIA for the project area/milestones, where major portion of work has been completed and only minor portion of work or supply is pending/deficient

and which does not affect the performance of the system. The clause is reproduced below:

"Power to withheld: Notwithstanding anything contained in the payment schedule, if in the opinion of the Purchaser, any work done or supply made or service rendered by Supplier is deficient in any manner in comparison to the prescribed standards, Purchaser shall be at liberty to withhold a reasonable portion of the payments due to the Supplier, till such work/ supply/ service is made confirming to the prescribed standards. These powers to withhold payments shall be without prejudice to any other power/ right of the purchaser under this contract."

Note: It is to clarify that any Guideline, clarification issued by PFC/MoP after award of contract by utility on the IT implementing agencies (ITIA) is only recommendatory in nature and may be used by utilities for expediting the implementation activities in project areas covered under RAPDRP. This clarification neither dilutes any scope / obligations under the contract nor absolves the ITIA from the responsibilities and obligations under the contract awarded to them by respective Utilities.
