

Khyber Pakhtunkhwa Oil & Gas Company Ltd.

**RULES, POLICY & STANDARD OPERATING
PROCEDURES FOR
PROCUREMENT OF GOODS, WORKS & SERVICES**

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PROCUREMENT IN A CORPORATE ENVIRONMENT

Until recently, procurement was necessary, but seldom celebrated, component of corporate sector entities. Major local and multinational companies are now giving more emphasis on procurement, which has taken on greater strategic importance and has become an integral part of corporate performance and is drawing increased attention from senior management considering that it consumes company's expenses to the tune of 60-70% of the material cost. Procurement involves the methods to ensure that goods and services are acquired at optimum value, in the right quantity and quality, at the right time and from the right source in a transparent manner for the direct benefit of the company. Based upon these broader principles, the consultant has framed a procurement policy/procedure for Khyber Pakhtunkhwa Oil & Gas Company Limited (KPOGCL) as detailed below.

1. GENERAL PROVISIONS

1.1 Definitions

These rules, procedures, mandates and methods shall be called Khyber Pakhtunkhwa Oil & Gas Company Ltd. (KPOGCL) Procurement of Goods, Works and Services Rules 2014, hereinafter referred to as 'Rules':

- a) "bid(s)" means a technical proposal(s) and/or a financial proposal(s) submitted as a result of request for quotations (RFQ), tender notice, or request for proposal (RFP) as may be the case;
- b) "bidder(s)" means, contractor, supplier, vendor or consultant who offers his services for procurement of works, goods or services in response to bid solicitation by the procuring entity;
- c) "best evaluated bid" means the highest ranking bid in accordance with the evaluation criteria set forth in the bid solicitation documents.
- d) "bidding" means the part of procurement process under which sealed bids are invited, received, examined and evaluated for the purpose of awarding a contract;
- e) "bidding documents" means the data, information and representations submitted by the bidder on the bid solicitation documents advertised and made available by the Procuring Entity;
- f) "bid solicitation documents" means the documents prepared by the Procuring Entity on the format of bid solicitation documents / standard bidding document for solicitation of bids;
- g) "BoD" means Board of Directors of Company;
- h) "Chairperson" means the Chairperson of the Board of Directors of the KPOGCL;
- i) "Company" means Khyber Pakhtunkhwa Oil & Gas Company Limited (KPOGCL);
- j) "competent authority" means power delegated by the BoD to a officer of the Company;
- k) "consultant" means a person, a firm, company or an organization undertaking supply of services;
- l) "contract" means a contract as defined in the Contract Act, 1882;

- m)** “contractor” mean a person, a firm, company or an organization undertaking supply of goods, or works;
- n)** “EOI” means Expression of Interest;
- o)** “goods” means articles and objects of every kind and description including raw materials, intermediate inputs, finished goods, products, equipment, computers, machinery, spares and commodities in solid, liquid or gaseous form, electrical, mechanical, as well as incidental services such as installation, transport or vehicles, maintenance and similar obligations related to the supply of goods, if the value of these services does not exceed the value of such goods;
- p)** “Government” means the Government of the Khyber Pakhtunkhwa Province;
- q)** “Managing Director“ means the Managing Director of the Company;
- r)** “mis-procurement” means public procurement in contravention of any provision of the Rules or any other law in respect of or relating to procurement, including any rules, regulations, orders or instructions made in this behalf and for the time being in force;
- s)** “PEC” means Pakistan Engineering Council;
- t)** “prescribed” means prescribed by rules, regulations or administrative orders.
- u)** “procurement object” means goods, works or services to be procured by a procuring entity through public procurement process;
- v)** “procuring entity” means a unit department , any office including a project unit of KPOGCL.
- w)** “professional engineering work” means providing professional advice and opinions, the making of measurements and layouts, the preparation of reports, computations, designs, drawings, plans, specifications and construction, inspection, and supervision of engineering works of KPOGCL
- x)** “Company Fund” means the following:
 - i.) provincial grants;
 - ii.) loan or foreign assistance/loan/grant;
 - iii.) all moneys standing/retained in the Company accounts;
- y)** “repeat order” means a fresh contract / order given directly to the same contractor / consultant without going into re-bidding procurement process,

in accordance with the specified conditions and limits contained in these rules;

- z)** “PPRA Rules” means Pakistan Procurement Regulatory Authorities and the company shall follow PPRA Rules in letter and spirit;
- aa)** “request for proposal” (RFP) means bidding document for soliciting technical and financial proposals for procurement of services;
- bb)** “responsive” means conformity of a technical proposal submitted by the prospective bidders to the statement of requirements in terms of provision of these rules;
- cc)** “services” means any object of procurement which does not constitute procurement of works or goods and includes consulting services;
- dd)** “supplier” means a person, a firm, company or an organization undertaking supply of goods, services or works; and
- ee)** “works” means any construction work consisting of erection, assembly, repair, renovation or demolition of a building or structure or part thereof, site preparation, excavation, installation of equipment or materials and decoration, finishing and includes allied services such as mapping, satellite photography, seismic investigations and similar activities, if the value of the services does not exceed that of the works themselves.

1.2 Applicability and Exception of these Rules

a) These rules shall be applicable to all the procurements of the Company.

b) The exception to the applicability of these rules shall be:

i.) Emergency Procurement

In cases of emergency, such as earthquake, floods or other national calamities, as covered under the West Pakistan National Calamities (Prevention and Relief) Act 1958 (W.P Act No. XXXIII of 1958), security breaches, or well blow-out(s) subject to:

- ii.)** that all such Procurements along with its emergent nature has to be recorded by the Procuring officer and approved by competent authority of the Company;
- iii.)** that quantities in all such procurements shall be limited to the assessed requirement of emergency only;

- iv.) that these shall be used only for procurements upto maximum for a month. For period more than a month, the normal rules shall apply.

1.3 Principles of Procurement

All procurements, all provisions of these rules shall adhere to and promote the following principles but not limited to:

- a) transparency,
- b) fair and open competition,
- c) economy and efficiency,
- d) high workmanship,
- e) quality,
- f) just in time,
- g) value for money,
- h) no/zero receipt of any gratification from the vendors, suppliers, contractors, consultants etc.,
- i) documentation,
- j) Induct ERP solutions and being a green company shall endeavor to be paper-less,
- k) accountability, and
- l) inexpensive and swift grievance handling.

1.4 Language

All documentation related to procurements shall be in Urdu or English.

1.5 Code of Ethics and Integrity Pact

All procurements shall be subject to an integrity pact, to be prescribed by the Company and made part of the contract agreement between the procuring entity and the suppliers, contractors or consultants. Special emails shall exist with the CEO, non-executive directors and Chairman which will be part of every RFP/RFQ thru which the vendors etc. can lodge complaint of any wrong doing by any member of the procurement chain.

2. PROCUREMENT OF GOODS

2.1 Methods of Procurement for Petty Purchases, Direct Contracting and Emergency Procurement of Goods

The procurement, including petty purchases through single source or through request for quotation; direct contracting including emergency procurement and open tendering shall be made in accordance with the following;

2.1.1 Petty Purchases

Petty Purchases up to Rs. 50,000/- shall be undertaken by obtaining a single quote through direct sourcing. Petty purchases between Rs. 50,000/- and Rs. 100,000/- shall be procured through inviting minimum of three quotations, observing following conditions:

- a) Request for Quotation is send to all expected bidders, simultaneously, with full contents, quantities, qualities, specifications, delivery time/schedule and altogether same information, which is duly acknowledged to be received.
- b) The closing time, date & address for submitting quotations shall be clearly defined and adhered to.
- c) All specifications are the same.
- d) In case, amount pertaining to applicable tax is not added in the quotation, comparison of price should be made after adding amount of applicable tax.
- e) During comparison, each item should be compared to the corresponding technical and physical specifications.
- f) Items costing above Rs 50,000/- cannot be split and brought under petty cash procurement systems to avoid transparency and competition.
- g) The requisitioning department shall give details, especially the quantities of already procured during last one year and balance to be procured in next 3, 6 & 9 months depending on the goods.

2.1.2 Direct Contracting and Emergency Procurement

Direct sourcing (also called single source) is allowed in case;

- a) the value of object to be procured is less than Rs. 500,000/-;
- b) of repeat order provided that it does not exceed 30 % of the original contract value;

- c) of procurement through Government organizations, in accordance with provisions of these rules;
- d) the procurement concerns the acquisition of spare parts or supplementary services from original manufacturer or supplier / contractor;
- e) the same goods are not available from alternative sources;
- f) only one contractor, OEM, manufacturer, proprietary item supplier/OEM or supplier exists for the required procurement;
- g) where a change of contractor /supplier would oblige the procuring entity to acquire material having different technical specifications or characteristics and would result in incompatibility or disproportionate technical difficulties in operation and maintenance, this shall be done with proper justification and recording of such reasons;
- h) when the price of goods and supplies is fixed by the governments;
- i) when the price of concessions, exploration leases and D&P leases is fixed by the governments; (in such a case the value can be higher than stated in Article 2.1.2 a);
- j) of purchase of motor cars from local original manufacturers or their authorized agents at manufacturer's price; (in such a case the value can be higher than stated in Article 2.1.2 a).
- k) in case of blow out/fire in the well the cost to control and kill the well emergency procurement is allowed cost of which can run in to millions of dollars

2.1.3 Negotiated Tendering

A procuring entity may engage in negotiated tendering with one or more suppliers or contractors with or without prior publication of a procurement notification. However, this should be approved by BoD in advance. This procedure shall only be used when,-

- a) the supplies involved are manufactured purely for the purpose of supporting a specific piece of research or an experiment, a study or a particular development;
- b) for technical reasons, or for reasons connected with protection of exclusive rights or intellectual property, the supplies may be manufactured or delivered only by a particular supplier;
- c) for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the time limits laid down for open and limited

bidding methods cannot be met. The circumstances invoked to justify extreme urgency must not be attributable to the procuring entity:

Provided that any procuring entity desirous of using negotiated tendering as a method of procurement shall record its reasons and justifications in writing for resorting to negotiated tendering and shall place the same on record with the BoD.

2.2 Open Tendering Through General Advertisement

All purchases except procurement made under section 2.1 above shall be posted on the Company website, Governments website , advertised in print media especially the two largest dailies of English and Urdu each and at least two dailies of KP,

2.3 Open Tendering Timings

For all purchases, other than those being covered by sections 1.2 & 2.1 above shall be undertaken through open tendering giving enough time for bidders to respond..

2.3.1 Single envelope single stage (SESS)

Open tendering can be done through using a “single envelop single stage method” (SESS). This method should be used where cost is the only determining factor and technical specs are not critical however, some kind of minimum technical specs, size, weight, density etc has to be given. The single envelope shall contain the financial proposal / offer as well as brochures, technical specs etc., in accordance with the bid solicitation documents..

2.3.2 Single envelope two stages (SETS)

- a) This method should be used in cases of procurement of complex or specialized goods.
- b) Bidders for this method may or may not be pre-qualified.
- c) In the first stage, each bid shall comprise of a single package containing envelope marked as “TECHNICAL PROPOSAL” in Brown Envelope.
- d) The technical proposals will be evaluated in accordance with the evaluation criteria set forth in the bid solicitation document. A list of qualified and unqualified bidders will be formulated at the end of first stage.
- e) Following approval of the results of first stage, financial proposals will be solicited from qualified bidders in the second stage. The bidders will be

required to submit financial proposal in a single envelope / package white color clearly marked as “FINANCIAL PROPOSAL” in bold and legible letters to avoid confusion.

- f) The lowest offer from the qualified bidder shall be accepted for award of the contract and will be the ‘best evaluated bid’

2.3.3 Single stage two envelopes (SSTE)

- a) Exceptionally, where procurement of goods is required to be undertaken considering both aspects of quality and cost, single stage two envelopes method shall be used. In such cases, the procuring entity shall determine the weightings at the time of RFP approval from the competent authority to be allocated for quality and cost, in accordance with the nature & complexity of the contract, which may range between 20 – 80 %. In the first (this is the only stage) stage, the bidders shall submit technical (Brown Envelope/Package) and financial (White Envelope/Package) proposals in separately sealed envelopes, contained in one larger outer envelope/package. The technical proposals / details shall be evaluated on the basis of criteria set forth in bid solicitation documents. In the second stage, those bidders whose technical proposals score above a pre-determined threshold, set forth in the bid solicitation documents but not less than 65 (could be higher say 85%) depending on the complexity of the contract shall be considered qualified. Financial proposals of such qualified bidder(s) shall be opened in the presence of bidders, who choose to attend. Based on the evaluation of the financial proposal / offer in accordance with its respective weightage, cumulative marking by adding the proportionate scores of the technical and financial proposals / offers, shall be carried out. The bidder who resultantly ranks no. 1 shall be awarded the contract. In other words, Technical points plus Financial Points will be added up to determine the winning bidder.
- b) Negotiations, in cases of sub section 2.3.1 and 2.3.3(a) above shall not be held by the management only the BoD is authorized to call in the lowest bidder only for discussion if BoD feels that the price is high. The negotiation may only be done if re-tender will jeopardize the operation of the Company.
- c) In exceptional cases, where procurement of high value and complex nature goods is being undertaken, pre-qualification may be carried out in the manner prescribed in the following 2.4 and 2,6 sections.

2.4 Enlistment and Pre-Registration

- a) A procuring entity may establish a mechanism for enlistment and/or pre-registration for purposes of procurement of goods and related services only in exceptional or complex cases, where specialized goods, equipment and related services are required.
- b) The process of pre-registration with such departments shall be open to all and made transparent.
- c) The pre-registration forms shall be made available on the Company's and Government's websites, newsprint and electronic media.
- d) Such pre-registration / enlistment / renewal with the relevant department shall be undertaken by a committee with of at least four (4) members with the chairperson being an officer of senior level. Results showing the latest registered / renewed suppliers, those having rejected along with the recorded reasons for their rejection shall be made public with in five (5) business days after the committee has concluded business in this regard. The rejected suppliers/contractors may appeal within ten working days and prove their point to the Company.
- e) Enlistment or registration shall not be deemed as pre-qualification or qualification.

2.5 Pre-Qualification of Suppliers

- a) A procuring entity, in the first stage may pre-qualify bidders in cases where total worth of contract exceeds Rs. 5 million;
- b) The procuring entity may pre-qualify bidders by soliciting various details, including but not limited to the following, in accordance with the provisions of the sections 2.5(a) and 2.5(b).
 - i.) legal status along with proof of registration with one of the federal or provincial registration acts;
 - ii.) proof of being a taxpayer;
 - iii.) financial strength;
 - iv.) status of bid bonds and performance bond encashment;
 - v.) organizational profile, relevant experience, past performance, list of clients and references;
 - vi.) relevant experience and past performance;
 - vii.) litigation history;

- viii.) existing capabilities with respect to HR personnel, computing and engineering equipment (as may be the case), machinery and plant;
- ix.) financial position for the last three year including bank statements and audited reports by an external auditor;
- x.) proof of possessing appropriate managerial capability; and
- xi.) any other factor that a procuring entity may deem relevant, depending on the nature and complexity of the contract but not inconsistent with these rules.

2.6 Post Qualification

- a)** The procuring entity may engage itself in post qualifying the bidder, in case of contracts of complex nature and valuing Rs. 50 million or above;
- b)** Post qualification can only be done by the BoD;
- c)** This Article may only be invoked in case the lowest bidder has become insolvent and 'glaring' proof's has been placed before the BoD;
- d)** The BoD will engage an 'independent advisor' thru nomination from the top 4 accounting (KPMG, PwC, Deloitte and Ernst & Young) firms;
- e)** Procuring entity shall specify the requirement of post qualification in the solicitation documents. Post qualification may be undertaken in accordance with the provision of these rules, regardless of the bidders being pre-qualified.
- f)** This shall be done prior to recommending contract award; the BoD with the assistance of procurement committee shall determine whether the bidder whose bid has been determined to offer the best evaluated bid has the capability and resources to effectively carry out the contract offered in the bid.
- g)** In case the BoD is not satisfied with qualification based on the evaluation criteria resulting in post qualifying the best evaluated bid, it shall proceed to make a similar determination for the bidder offering the next best evaluated bid and shall go on with all the qualified and responsive bidders in accordance with their ranking in being 'best evaluated', till the criteria is satisfied or till all such bids are rejected.

2.7 Bid Security

- a)** The procuring entity may require the bidders to furnish bid security of up to two percent (2%) or a fixed amount in case of procurement of goods, if required.
- b)** In cases, where procurement is of complex nature, bid security up to five percent (5%) or fixed amount may be applied.
- c)** The bank draft or an irrevocable bank guarantee shall be kept sealed in the Technical proposal which will be opened and shown to all present.
- d)** The Bid Security should be valid for 6 months or whatever the case may be.

2.8 Goods Warranty

Where possible, the procuring entity shall ask for a warranty from the supplier or contractor, for replacement or repair of the procured good(s) falling in the warranty period.

3. PROCUREMENT OF WORKS

3.1 Methods of Procurement and Procedures including Emergency Provision

Open tendering shall be the default method of public procurement. The public procurement including petty purchases through single source or through request for quotation; direct contracting including emergency procurement and open tendering shall be made in accordance with the following;

3.2 Petty Procurement to Rs. 500,000/-

Shall be undertaken by obtaining a single quote through direct sourcing.

3.3 Procurement from Rs. 500,000/- and up to Rs. 3,000,000/-

Shall be made through inviting minimum of three quotations, observing following conditions:

- a) Request for Quotation is send to all registered bidders, simultaneously minimum three, with full contents and same information / specification, which is duly acknowledged to be received.
- b) The closing time, date & address for submitting quotations shall be clearly defined and adhered to.
- c) In case, amount pertaining to applicable tax is not added in the quotation, comparison of price should be made after adding amount of applicable tax.
- d) During comparison, each item should be compared to the corresponding specification
- e) Such procurement shall be placed on PEPRA web site.

3.4 Procurement above Rs.3,000,000/-

Shall be advertised on the Company's website and Government's website. These procurement opportunities must also be advertised in print media in at least two largest national dailies of Urdu and English each and two originating from KP.

3.5 Repeat orders Subject to the approval of BoD

The Company may enter into fresh agreement which shall be a repeat order with a contractor to ensure interests of the Company and for reasons of economy, compatibility and efficiency provided that:

- a) A period of not more than six months has elapsed from the date of the earlier contract having come into force;
- b) The Procuring Entity has satisfied itself from market survey that the prices of the work items have not decreased in the open market;
- c) The value of repeat order is not more than thirty percent (30%) of the original contract on total quantity while keeping the unit price same;
- d) There shall be not more than two repeat order for an original contract;
- e) For reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the time limits laid down for open and limited bidding methods cannot be met. The circumstances invoked to justify extreme urgency must not be attributable to the procuring entity;
- f) Provided that any procuring entity desirous of using repeat order under this sub rule, as a method of procurement, shall record its reasons and justifications in writing for resorting to negotiated tendering and shall place the same on record; and
- g) All repeat orders to be approved by BoD, but in case paucity of time these should be submitted to BoD for information.

3.6 All procurements

Other than those covered under the sections 3.3, 3.4 and 3.5, shall be advertised in print media, appearing in at least two largest National English and one Urdu largest newspapers with wide circulation along with advertising the same on the procuring entity's and Federal and Provincial Government's websites.

3.7 The following procedure shall be adopted for open competitive bidding:

3.7.1 Single stage – one envelope bidding

The bid shall comprise of one envelope containing technical and financial proposal from pre-qualified and/or registered bidders. All bids received shall be opened and evaluated in the manner prescribed in the bidding document. This shall be the default method of open competitive bidding.

3.7.2 Single stage – two envelope bidding

- a) This method shall apply to large and complex contracts.
- b) Bidders for this method may or may not be pre-qualified or registered.
- c) Each bid shall comprise a single package containing two separate envelopes. Each envelope shall contain separately the technical proposal and the financial proposal.
- d) The envelopes shall be marked as “TECHNICAL PROPOSAL” and “FINANCIAL PROPOSAL” in bold and legible letters to avoid confusion.
- e) The envelope marked as “TECHNICAL PROPOSAL” shall contain:
 - i.) The experience and past performance in the execution of similar contracts;
 - ii.) The capabilities with respect to personnel and construction equipments;
 - iii.) The financial status and capacity; and
 - iv.) Any other information asked for by the procuring entity in the notice inviting tenders.
- f) The second envelope marked as “FINANCIAL PROPOSAL” shall contain the price quoted by the bidders and be retained in the custody of the procuring entity without being opened.
- g) The procuring entity shall evaluate the technical proposal on the basis of criteria specified in the tender documents without reference to the price and reject any proposal which does not conform to the specified requirements. During the technical evaluation, no amendment in the technical proposal shall be permitted. A list of technically qualified bidders shall be finalized in this manner.
- h) After the evaluation and approval of the technical proposals the procuring entity, shall at a time within the bid validity period, publicly open the financial proposals of the technically accepted bids only. The financial proposals found technically non-responsive shall be returned un-opened to the respective bidders.
- i) The bid found to be the lowest evaluated bid shall be accepted.

3.7.3 Two stage - Two Envelope Bidding

This method shall be used for turnkey or large or complex contracts and ensures that all technical proposals conform to the same acceptable technical standards required by the procuring entity.

3.7.3.1 First stage

- a) the bid shall comprise of a single package containing two separate envelopes. Each envelope shall contain separately the financial proposal (white envelope) and the technical proposal (brown envelope);
- b) the envelopes shall be marked as “FINANCIAL PROPOSAL” and “TECHNICAL PROPOSAL” in bold and legible letters to avoid confusion;
- c) initially, only the envelope marked “TECHNICAL PROPOSAL” shall be opened;
- d) the envelope marked as “FINANCIAL PROPOSAL” shall be retained in the custody of the procuring entity without being opened;
- e) the technical proposal shall be discussed with the bidders with reference to the procuring entity’s technical requirements;
- f) those bidders willing to meet the requirements of the procuring entity shall be allowed to revise their technical proposals following these discussions;
- g) bidders not willing to conform their technical proposals to the revised requirements of the procuring entity shall be allowed to withdraw their respective bids without forfeiture of their bid security;

3.7.3.2 Second stage

- a) after agreement between the procuring entity and the bidders on the technical requirements, bidders who are willing to conform to the revised technical specifications and whose bids have not already been rejected shall submit a revised technical proposal and supplementary financial proposal, according to the technical requirement;
- b) the revised technical proposal along with the original financial proposal and supplementary financial proposal shall be opened at a date, time and venue announced in advance by the procuring entity;
- c) Provided that in setting the date for the submission of the revised technical proposal and supplementary price proposal a procuring entity shall allow sufficient time to the bidders to incorporate the agreed upon changes in the technical proposal and to prepare the required supplementary financial proposal; and
- d) the procuring entity shall evaluate the whole proposal in accordance with the evaluation criteria and the bid found to be the lowest evaluated bid shall be accepted.

3.8 Enlistment and Pre-Registration

- a) Enlistment or pre-registration shall not be deemed as pre-qualification or qualification.
- b) For procurement of works less than Rs. 5 million, pre-qualification or the Pakistan Engineering Council registration shall not be a pre-requisite. However, the procurement shall be carried out in accordance with the provisions of these rules and evaluation criteria as laid down in the bid solicitation documents / standard bidding document.
- c) In case of procurement of works exceeding Rs. 5 million, which are the large and complex contracts, Pakistan Engineering Council registration shall be one of the pre-requisites for bidding. These contracts may or may not be subjected to pre or post qualification as may be determined by the procuring entity on the basis of the nature / requirements of such contracts.
- d) Enlistment and pre-registration shall be undertaken by a committee to be nominated by the Company.
- e) Criteria for the enlistment shall be based on works executed, indicating value of works, list of technical and other staff, plant / equipment along with the make and financial worth.
- f) The management will submit a Working Paper to the BoD for enlisted bidders.

3.9 Pre-qualification of Contractors

- a) A procuring entity, in the first stage may pre-qualify bidders in cases, where total worth of contract exceeds Rs. 50 million irrespective of its worth and is considered as 'complex'.
- b) The procuring entity may pre-qualify bidders by soliciting various details including but not limited to the following, in accordance with the provisions of sections 3.9(a) and 5.7;
 - i.) legal status along with proof of registration with one of the federal or provincial registration acts;
 - ii.) proof of valid / renewed PEC registration;
 - iii.) proof of being a taxpayer.
 - iv.) organizational profile, relevant experience, past performance, list of clients and references;

- v.) existing capabilities with respect to HR personnel, computing and engineering equipment, machinery and plant (as may be the case);
- vi.) financial position for the last three year including bank statements and audited reports by an external auditor;
- vii.) proof of possessing appropriate managerial capability; and
- viii.) any other factor that a procuring entity may deem relevant, and is duly included in the bid solicitation documents, depending on the nature and complexity of the contract but not inconsistent with these rules.

3.10 Bid Security

- a) The procuring entity may require the bidders to furnish bid security of two per cent (2%) in case of procurement of works or a fixed amount determined by the owners engineer and vetted by a designated committee of the Company, if required.
- b) The bank draft or an irrevocable bank guarantee (not insurance guarantee) shall be kept sealed in the Technical proposal.. Otherwise the proposal will be considered non-responsive and will be returned to the bidder after being examined by the procurement committee.
- c) The bid security will be returned to unsuccessful bidders after the contract has been signed with the winning bidder or after the expiry of the bid security date prescribed in the bid document on the written request of the bidders.
- d) The bid security of the successful bidder will be retained in case no performance guarantee is required; however such a condition shall be mentioned in the bidding document. In case performance guarantee is required, bid security shall be released to the successful bidder after he has submitted the performance guarantee in the shape of an irrevocable bank guarantee in due time.

3.11 Performance Guarantee

The procuring entity may ask for a performance guarantee from the contractor, maximum up to ten percent (10%) of the bid value or a fixed amount as determined by the owners engineer and vetted by a committee designated by the management, as would be specified in the standard bid solicitation documents / standard bidding document.

4. PROCUREMENT OF SERVICES, INCLUDING CONSULTING SERVICES

4.1 Methods of Procurement for Petty Services, Direct Contracting and Emergency Procurement of Services including Consulting Services

The procurement including petty services through single source or through request for quotation; direct contracting including emergency procurement and open tendering shall be made in accordance with the following;

4.1.1 Petty Purchases

Petty services up to Rs. 150,000/- shall be undertaken by obtaining a single quote through direct sourcing. Petty purchases between Rs. 150,000/- and Rs. 500,000/- shall be procured through inviting minimum of three quotations, observing following conditions:

- a) Request for Quotation is send to all expected bidders, simultaneously, with full contents and same information, which is duly acknowledged to be received.
- b) The closing time, date & address for submitting quotations shall be clearly defined and adhered to.
- c) All specifications are the same.
- d) In case, amount pertaining to applicable tax is not added in the quotation, comparison of price should be made after adding amount of applicable tax.
- e) During comparison, each item should be compared to the corresponding specification.

4.1.2 Direct Contracting and Emergency Procurement

Direct sourcing is allowed in case;

- a) of sub- sections 1.2(b)(i) and 1.2(b)(ii);
- b) the value of object to be procured is less than Rs. 150,000/-;
- c) of repeat order provided that it does not exceed thirty percent (30 %) of the original contract value;
- d) of procurement through Government organizations, in accordance with provisions of section 1.2(b)(iv);
- e) procurement under the provision of section 2.1.2(k)

4.1.3 Negotiated Tendering

A procuring entity may engage in negotiated tendering with one or more Consultant (s) with or without prior publication of a procurement notification. This procedure shall only be used when, -

- a) for technical or artistic reasons, or for reasons connected with protection of exclusive rights or intellectual property;
- b) for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the time limits laid down for open and limited bidding methods cannot be met. The circumstances invoked to justify extreme urgency must not be attributable to the procuring entity;

Provided that any procuring entity desirous of using negotiated tendering as a method of procurement shall record its reasons and justifications in writing for resorting to negotiated tendering and shall place the same on record.

4.2 Open Tendering through Advertising on the Website

Procurement of services up to Rs. 5.0 million shall be posted on the procuring entity's website or Government's website or both. These procurement opportunities may also be advertised in print media, if deemed necessary by the procuring entity.

4.3 Open Tendering

For all purchases, other than those being covered by sections 4.1 and 4.2 shall be undertaken through open tendering. Such procurements shall be advertised in print media, appearing in at least in two largest National English and one largest Urdu newspaper with nationwide circulation along with advertising the same on the procuring entity and Federal and Provincial Government's websites.

4.3.1 Single Stage Single Envelope

- a) Open tendering can be done through using a single envelop single stage method. This method should be used where quality or cost is the only determining factor. The single envelope shall contain the technical proposal /financial proposal / offer, in accordance with the bid solicitation documents.
- b) Using this method for cost only, it shall be done in case consultants are already pre-qualified for the same services including but not limited to financial audit, legal services. Pre-qualification shall be carried out in the manner prescribed in sections 4.4 and 5.7. Financial offers from at least three of such pre-qualified shall be sought in a single envelope. These

should be opened in the presence of those bidders who choose to be present at a time and venue pre determined and indicated in the letter soliciting financial offers. The bidder quoting the lowest shall be awarded the contract.

- c) Single stage single envelope may be used for seeking Technical Proposal for procurement of consulting services from firms, on the basis of quality only or qualification only, as would be further determined by the bid solicitation documents / RFP.
- d) Single stage single envelope may also be used for procurement of individual consultants seeking their detailed CVs in one envelope and evaluating the bidders on the basis of evaluation criteria laid down in the bid solicitation documents /letter for invitation, set out by the procuring entity. Financial proposal from the technically ranked no.1 shall be solicited for award of the contract, with or without negotiations in accordance with the relevant rule for post bid negotiations.

4.3.2 Single stage two envelopes

Where procurement of services is required to be undertaken considering both aspects of quality and cost, single stage two envelopes method shall be used. In such cases, the procuring entity shall determine the weightages to be allocated for quality (ranging from 70% to 80%) and cost (ranging from 30% to 20%), in accordance with the nature & complexity of the contract. Such criteria should be well documented in the RFP. In the first stage, the bidders shall submit technical and financial proposals in response to the request for proposal separately in sealed envelopes, contained in one larger outer envelope. The technical proposals / details shall be evaluated on the basis of criteria set forth in bid solicitation documents. Those bidders whose proposals score above a pre-determined threshold, set forth in the bid solicitation documents and from 65-85% depending on the complexity of the contract shall be considered qualified. Financial proposals of such qualified bidder(s) shall be opened in the presence of bidders who choose to attend. Based on the evaluation of the financial proposal / offer in accordance with its respective weightage, cumulative marking by adding the proportionate scores of the technical and financial proposals / offers, shall be carried out. The bid which is resultantly ranked no. 1 shall be the best evaluated bid. The contract shall be awarded to the best evaluated bid.

4.3.3 Two stage two envelopes method (Eol and RFP)

This method maybe used for procurement of services above Rs. 6 million on quality and cost basis. In such cases, the procuring entity shall determine the

weightages to be allocated for quality and cost, in accordance with the nature & complexity of the contract, which may range between 20 – 80 %.

4.3.3.1 Expression of Interest

In the first stage, the bidders shall submit Expression of Interest containing but not limited to the following:

- a) Legal status;
- b) List of previous clients;
- c) Turnover supported by audit reports for the last three years;
- d) National Tax Registration certificate;
- e) List of similar / relevant work done along with its worth;
- f) Any other information that the procuring entity may deem necessary in accordance with the nature of the procurement.

4.3.3.2 Preparation of short list

- a) Upon receipt of the EoI submitted by the bidders, a procuring entity shall select a short list composed of not less than three that are deemed best suited to perform the assignment.
- b) All applicants participating in the EoI shall be informed whether or not they are retained in the shortlist by a procuring entity. The names of the short listed applicants shall be communicated to all.

4.3.3.3 Request for Proposal

- a) A procuring entity shall prepare an RFP which contains the solicitation documents, containing but not limited to the following:
 - i.) the name and address of a procuring entity;
 - ii.) a description of the assignment required, normally by means of terms of reference;
 - iii.) the sub-method for selection of the successful consultant and a requirement that consultants' proposals be submitted according to a two-envelope system whereby the first envelope shall contain the Technical Proposal, without any reference to price, and the second envelope shall contain the Financial proposal ;
 - iv.) where a consultant's assignment may involve a potential conflict of interest, a reminder that consultants for such assignments must exclude themselves from procurement of goods and works which may follow as a result of, or in relation to, the consultants agreement;

- v.) where an consultant has carried out a preceding related assignment, whereby a potential conflict of interest may be perceived, then that consultant shall also exclude itself from participation in this subsequent assignment;
 - vi.) the criteria for evaluating the proposals, the relative weight to be given to price and technical merit parameters, and the manner in which they will be applied in the evaluation of proposals;
 - vii.) place and deadline for the submission of proposals; and
 - viii.) the contract format defining the obligations of the consultant and the procuring entity.
- b)** Consultants shall be given adequate time in which to prepare their proposals which shall not be less than 28 days.
- c)** Based on the RFP, the short listed bidders shall submit technical and financial proposals in separately sealed envelopes, contained in one larger outer envelope. The technical proposals / details shall be evaluated on the basis of criteria set forth in bid solicitation documents. Those bidders whose proposals score above a pre-determined threshold, set forth in the bid solicitation documents and from 65-85% depending on the complexity of the contract shall be considered qualified. Financial proposals of such qualified bidder(s) shall be opened in the presence of bidders who choose to attend. Based on the evaluation of the financial proposal / offer in accordance with its respective weightage, cumulative marking by adding the proportionate scores of the technical and financial proposals / offers, shall be carried out. The bid which is resultantly ranked no. 1 shall be the best evaluated bid. The contract shall be awarded to the best evaluated bid.
- d)** Negotiations may only be undertaken in exceptional cases as prescribed in relevant rule for post bid negotiation.

4.4 Pre-qualification of Consultants

- a)** A procuring entity, in the first stage may pre-qualify bidders in cases where total worth of contract exceeds Rs. 5 million.
- b)** The procuring entity may pre-qualify consultants for services such as financial audit or legal services or any other specialized routine service to be hired every year. This shall be done by soliciting various details including but not limited to the following:
- i.) legal status along with proof of registration with one of the federal or provincial registration acts;

- ii.) proof of being a taxpayer;
- iii.) organizational profile, relevant experience, past performance, list of clients and references;
- iv.) relevant experience and past performance;
- v.) existing capabilities with respect to HR personnel, computing and engineering equipment (as may be the case),;
- vi.) financial position for the last three year including bank statements and audited reports by an external auditor;
- vii.) proof of possessing appropriate managerial capability; and
- viii.) any other factor that a procuring entity may deem relevant, depending on the nature and complexity of the contract but not inconsistent with these rules.

5. OTHER GENERAL PROVISIONS

5.1 Procurement Planning

Each Procuring Entity shall plan its procurements with due consideration to transparency, economy, efficiency and timeliness, and shall ensure equal opportunities to all prospective bidders. Procurement must be aligned with the Annual Budget and Perspective Plan approved by BoD. Phasing of projects shall be approved by the BoD.

5.2 Limitation on Splitting or Regrouping of Proposed Procurement

A procuring entity shall announce in an appropriate manner all proposed procurements for each financial year and shall proceed accordingly without any splitting or regrouping of the procurements so planned.

5.3 Procurement Committees

Each procuring entity shall constitute committees, in accordance with delegation of financial powers, separately for procurement of goods, works and services. The committee(s) shall have a representative each from the finance as well as technical sections of the procuring entity.

5.4 Bid Solicitation Documents

- a) A Procuring Entity shall adopt standard bidding documents as prescribed by Pakistan Engineering Council (PEC) and FIDIC.
- b) PPRA and Provincial Government Procurement Rules must be followed.
- c) In case of procurement of works, solicitation documents shall contain technical specifications, drawings and designs, bill of quantities and estimated costs (whatever applicable), evaluation criteria, expected commencement of contract and time period for completion; bid validity; securities demanded; payment schedule; general and special conditions of contract, in case of procurement of works.
- d) In case of procurement of goods and services, including consulting services, the standard bidding document shall include scope of work and terms of reference; the evaluation criteria; the extent of bid validity; quantity, quality and specifications; qualification and experience of consultants; securities, approach and methodology, work plan and delivery schedule; pre shipment inspection (where applicable); schedule of payments and general and special conditions of the contract.

- e) Apart from the above, any other document or information or detail that the procuring entity may deem necessary, shall be included in the solicitation documents, unambiguously.
- f) Solicitation documents shall be made available to the bidders from the date of their issuance to the closing date on submission of required fee by the prospective bidder whether in person or, if so requested through an authorized request in writing. In case the request is made through courier, it shall accompany a bank draft in favor of the procuring entity including the cost of return delivery.
- g) In cases where the procuring entity deem necessary may, keep a time period ending earlier than the closing date of tender / bid, for obtaining bid solicitation documents, provided that it is not less than the minimum response time provided in section 5.5.
- h) In case of modification of solicitation documents by the procuring entity, it shall do so by issuing an addendum or corrigendum and intimate the bidders publicly or individually, in case it has issued the solicitation documents, 5 business days before the closing date. In case, the changes are substantial, the time for submission maybe extended proportionately, by issuing timely intimation to all bidders.

5.5 Response Time

- a) The procuring entity may decide the response time for receipt of bids or proposals (including proposals for pre-qualification) from the date of publication of an advertisement or notice, keeping in view the contract's complexity, and urgency. However, under no circumstances the response time shall be less than 30 days for national competitive bidding and forty-five days for international competitive bidding from the date of publication of advertisement or notice in the national newspaper.
- b) The response time shall be calculated from the date of first publication of the advertisement in a newspaper or posting on the web sites, as the case may be.
- c) In situations where publication of such advertisements or notices has occurred in both electronic and print media, the response time shall be calculated from the day of its first publication in the newspapers.

5.6 Bid Validity

- a) Bidders shall be required to submit bids valid for a period specified in the bid documents, which shall be sufficient to enable a procuring entity to

complete the evaluation and comparison of bids and obtain all necessary approval so that a contract can be awarded within that period.

- b)** A procuring entity shall complete evaluation of bids and award of contract within the initial period of bid validity. An extension of bid validity, if justified by exceptional circumstances, shall be required in writing from all bidders before the expiration date. Bidders consenting to extend their bid validity period shall also correspondingly extend the validity of their bid security.
- c)** A bidder not agreeing to extend its bid validity period may do so without having his bid security, forfeited and in this case its bid will no longer be considered in the evaluation proceedings.
- d)** The bid security shall be forfeited if a bidder withdraws his bid, within the validity period thereof or, in the case of a successful bidder, who repudiates the contract or fails to furnish performance security.

5.7 Pre-qualification Process

- a)** The procuring entity engaging in pre-qualification shall announce, in the pre-qualification documents, all information required for pre-qualification, including instructions for preparation and submission of the pre-qualification documents, evaluation criteria, list of documentary evidence required of contractors / consultants to demonstrate their respective qualifications and any other information that the procuring entity deems necessary for pre-qualification.
- b)** The procuring entity shall provide a set of pre-qualification documents to any contractor or consultant, on request and subject to payment of document fee (if applicable), which shall not exceed cost of printing and providing the documents.
- c)** The procuring entity shall promptly notify each contractor or consultant submitting an application to pre-qualify whether or not it has been pre-qualified and shall make available to any person directly involved in the pre-qualification process, upon request, the names of all contractors or consultants who have been pre-qualified. Only contractors or consultants who have been pre-qualified shall be entitled to participate.
- d)** The procuring entity shall communicate on request, to those contractors or consultants who have not been pre-qualified the reasons for not pre-qualifying them.

5.8 Submission of Bids and Bid Opening

- a) Bids shall be invited through a procuring officer designated for the purpose by the procurement committee.
- b) A Procuring Entity shall require bidders to submit sealed written bids or in such other manner as may be prescribed in the solicitation documents.
- c) The procuring entity shall issue the bidder with a receipt showing the date and time when the bid was received.
- d) No bids or tenders received after the prescribed time and date in the solicitation documents or in accordance with subsequent corrigendum, shall be entertained.
- e) The method for submission of bids shall be determined by the type, complexity and evaluation method of the procurement in accordance with these Rules.
- f) All announcements pertaining to procurement shall specify the last date for submission of bids as well as the public bid opening which shall be the same.
- g) The bids, technical or financial as may be the case, shall be opened at the prescribed time provided in the solicitation documents in the presence of the procurement committee and the bidders who choose to be present.
- h) The name of the bidder, bid modifications, discounts or withdrawals, presence of bid security or affidavit as may be the case and the total amount of each bid and any alternatives, if so permitted, shall be read out aloud and recorded, and a copy of the record shall be made available to any bidder on request.
- i) No bidder shall be allowed to withdraw his bid till award of the contract or till bid is valid, whichever is earlier.
- j) A Procuring Entity may ask bidder for clarification of the bid, including bid pricing, to assist in the evaluation. To avoid delays, the Procuring Entity may hold a pre-bid conference with the prospective bidders at least ten days before the last day for submission of bids if the procurement is of complex nature and high value.

5.9 Confidentiality

The procuring entity shall keep all information regarding the bid evaluation confidential until the time of the announcement of the evaluation report in accordance with the requirements of section 5.16.

5.10 Bid Evaluation

- a) Procuring entity shall appoint only one procurement committee. Procurement Committee shall be formed at the appropriate level to examine, evaluate and prepare a report with recommendations for award of contract directly to the approving authority, following the guidelines provided below in the proceeding sub sections.
- b) The Procurement Committee shall consist of at least five members, of whom two shall be experienced in procurement and from outside of the procuring entity. The Head of the procuring entity shall select these two members. Once appointed the composition of the Procurement Committee shall remain unchanged. The Procurement Committee shall be **proposed to BoD for approval..** Procurement Committee should not be changed without valid grounds.
- c) The members of the procurement committee shall:
 - i.) certify in the tender evaluation report that "the evaluation has followed the requirements as were laid down in the solicitation documents and that, all facts and information have been correctly reflected in the Evaluation Report and that no substantial or important information has been omitted; and
 - ii.) after the opening of the bids sign a declaration of impartiality confirming that they have no business or other links to any of the competing tenderers / bidders.
- d) A procuring entity may ask bidders for clarification in writing of their tenders in order to facilitate the examination and evaluation of tenders. No change in the substance of the tender, including changes in price, shall be sought, offered may be solicited from the bidder nor permitted.
- e) A procuring entity shall correct purely arithmetical errors that are discovered during the examination of bids including adding the applicable tax to the total bid, in case it is not quoted in the bid. The entity shall give prompt notice of any such correction to the concerned bidder.
- f) The procuring entity may regard a bid as responsive only if it conforms to all requirements set forth in the solicitation documents.
- g) A procuring entity may regard a bid as responsive even if it contains minor deviations that do not materially alter or depart from the characteristics, terms, conditions and other requirement set forth in solicitation documents or if it contains errors or oversights that are

capable of being corrected without touching on the substance of the bid. Any such deviations shall be quantified, to the extent possible, and appropriately taken account of in the evaluation and comparison of bids.

- h)** For the purposes of comparison of bids quoted in different currencies, the price shall be converted into a single currency specified in the bid solicitation documents. The rate of exchange shall be the selling rate, prevailing on the date of opening of bids specified in the bid solicitation documents, as notified by the State Bank of Pakistan on that day.
- i)** A procuring entity shall evaluate and compare the bids that have been declared responsive in order to ascertain the best evaluated bid in accordance with provisions of these Rules.
- j)** In case, the procuring entity has only two responsive bids for evaluation, and that they fulfill qualification criteria, shall have them evaluated by the procurement committee. Additionally, if the bid is found to be fully compliant with the bid solicitation documents, the price is within the official estimate and/or comparable with the prevailing market price, then the bids may be submitted to the approving authority with a recommendation for award of contract.
- k)** The successful bidder shall be the bidder with the best evaluated bid ascertained on the basis of factors specified in the bid solicitation documents.
- l)** If there is a tie between the bidder securing the best evaluated, the bidder with the superior past performance provided in the submitted documents shall be recommended for award of the contract.
- m)** If after evaluation it is found that the best evaluated bid is higher than fifteen percent (15%) of the available budget but within prevailing market price levels, then the procurement committee may recommend to the approving authority to accept the bid.
- n)** If after evaluation it is found that the best evaluated bid is significantly higher than the prevailing market price levels then the bid evaluation committee may recommend to the approving authority to reject all bids.

5.11 Discriminatory and Difficult Conditions

The Procuring entity shall not introduce any condition, which discriminates between bidders or that is considered to be met with difficulty. In ascertaining the discriminatory or difficult nature of any condition reference shall be made to the ordinary practices of that trade, manufacturing, construction business or service to which that particular procurement is related.

5.12 Open Tendering with International Competition

- a) When, in the absence of domestic capacity, effective competition cannot be obtained unless special efforts are made to attract international competition, international competition may be solicited in accordance with the with the following provisions:
- i.) the tender documents shall be in the English language;
 - ii.) the invitation to tender shall be in the English language and shall be placed in a newspaper of sufficient circulation to attract foreign competition. In addition, a procuring entity may transmit such invitations to their embassies and trade representatives of potential supplier countries;
 - iii.) the time allowed for submission of tenders shall be sufficient for the invitation to reach bids, depending on the complexity and nature of procurement and for enabling them to prepare and submit bids but in no case less than forty five (45) days;
 - iv.) technical specifications shall, to the extent compatible with national requirements, be based on international standards or standards widely used in international trade;
 - v.) bidders shall be permitted to express their bids, as well as any bid and performance security documents to be presented by them in their respective home currencies or in a currency widely used in international trade and stated in the solicitation documents;
 - vi.) All bids to be prepared electronically like CDs and where necessary in hardcopies.
 - vii.) general and special conditions of contract shall be of a kind generally used in international trade.

5.13 Post Bid Negotiation

- a) Negotiations should not be held as a general principle with the best evaluated bid.
- b) In exceptional circumstances laid as follows, limited negotiation may be held;
- i.) in case of procurement through methods for petty purchase, direct sourcing, negotiated tendering and emergency procurement as provided in these Rules, in case it is determined that the offered price of the best evaluated is higher than the market price and that it is

established that interest of the Company can be better safeguarded by entering into limited negotiations, however reasons that lead to limited negotiations as defined here, shall be duly recorded by the procuring entity;

- ii.) in case the procurement is done on quality basis only;
- iii.) in case the quoted price is up to fifteen (15%), higher than the budgeted amount and that such limited negotiations can bring it within the budget; or
- iv.) in case the quoted price is higher than fifteen (15%) from the prevailing market prices.

5.14 Disqualification of Suppliers, Contractors and Consultants

The procuring entity shall disqualify a supplier or contractor or consultant if it finds, at any time, that the information submitted by him concerning his qualification as supplier or contractor was false and materially inaccurate or incomplete. However, the bidder may have right to appeal against the decision.

5.15 Blacklisting of Suppliers, Contractors and Consultants

- a) The procuring entity shall specify a mechanism and manner to permanently or temporarily bar, from participating in their respective procurement proceedings, suppliers contractors and consultants who either consistently fail to provide satisfactory performances or are found to be indulging in corrupt or fraudulent practices or abandon the work prematurely resulting in loss to the Company. Such barring action shall be duly publicized and communicated to the competent authority of the Company, provided that any contractor or consultant who is to be blacklisted shall be accorded adequate opportunity of being heard in person.
- b) Companies blacklisted by PPRA, Prov Proc Reg agencies, OGDCL, PPL, POL, WB, ADB, IDB, IFC, IDA, Ex-Im Banks, Khyber Bank, etc. shall be considered blacklisted by the Company and shall be barred from bidding.
- c) Declared defaulters shall be barred from bidding.
- d) The bidder will have a right to complaint to the CEO of Company.

5.16 Announcement of Evaluation Reports

Procuring entities shall announce the results of technical bid evaluation in the form of a report before opening of the financial bids, to all bidders. The procuring entity shall also announce the final results giving justification for acceptance or rejection of bids at least ten days prior to the award of procurement contract and place the same on its and Governments websites.

5.17 Approval of Contract Award

- a) The procurement committee shall submit the bid evaluation report with its recommendations for award of contract, to the approving authority in accordance with the Delegation of Powers in an expeditious manner, so that the award can be notified before expiry of the bid validity, without having to seek extension, in conformity with the provisions of these Rules.
- b) All contract awards shall be made public.

5.18 Rejection of Bids

- a) The procuring entity may reject all bids or proposals at any time prior to the acceptance of a bid or proposal. The procuring entity shall upon request communicate to any contractor or consultant who submitted a bid or proposal, the grounds for rejection of all bids or proposals.
- b) The procuring entity shall incur no liability, solely by virtue of its invoking sub-section (a) towards contractors or consultants who have submitted bids or proposals.
- c) Notice of the rejection of all bids or proposals shall be given promptly to all contractors or consultants that submitted bids or proposals.

5.19 Re-bidding

- a) If the procuring entity has rejected all bids under section 5.18, it may call for a re-bidding.
- b) The procuring entity before invitation for re-bidding shall assess the reasons for rejection and may revise specifications, evaluation criteria or any other condition for bidders as it may deem necessary.

5.20 Payments

All procuring agencies shall make prompt payments to contractors and consultants against their invoices or running bills within the time given in the conditions of the contract, which shall not exceed forty (40) days.

5.21 Entry into Force of the Procurement Contract

A procurement contract shall come into force,-

- a) where no formal signing of a contract is required, from the date the notice of the acceptance of the bid or purchase order has been given to the bidder whose bid has been accepted. Such notice of acceptance or purchase order shall be issued within fifteen (15) days thereof; or
- b) where the procuring entity requires signing of a written contract, from the date on which the signatures of both the procuring entity and the successful bidder are affixed to the written contract. Such affixing of signatures shall take place within fifteen (15) days after the letter of acceptance / award has been issued.

Provided that where the coming into force of a contract is contingent upon fulfillment of a certain condition or conditions, the contract shall take effect from the date whereon such fulfillment takes place.

5.22 Closing of Contract

- a) Except for defect liability or maintenance by the contractor or consultant, as specified in the conditions of contract, performance of the contract shall be deemed close on the issue of over all delivery certificate or taking over certificate which shall be issued within thirty days of final taking over of goods, or receiving the deliverables or completion of works enabling the contractor or consultant to submit final bill.

In case of defect liability or maintenance period, defect liability certificate shall be issued within thirty days of the expiry of the said period enabling the contractor or consultant to submit the final bill. Except for unsettled claims, the bill shall be paid within the time given in the conditions of contract, which shall not exceed sixty days to close the contract.

5.23 Record of Procurement Proceedings

- a) All procuring entities shall maintain a record of their respective procurement proceedings along with all associated documentation.
- b) Such maintenance of record shall be subject to the regulations framed in this regard from time to time.

5.24 Public Access and Transparency

As soon as a contract has been awarded the procuring entity shall make all documents related to the evaluation of the bid and award of contract public.

Provided that where the disclosure of any information related to the award of a contract is of proprietary nature or where the procuring entity is convinced that such disclosure shall be against the public interest, it can withhold only such information from public disclosure subject to the prior approval of the competent Authority.

5.25 Mis-procurement

Any unauthorized breach of these rules shall amount to mis-procurement.