



**GOVERNMENT OF THE PUNJAB
SERVICES AND GENERAL ADMINISTRATION
DEPARTMENT**

Dated Lahore, the 13th January, 2014

NOTIFICATION

No.ADMN(PPRA)10-2/2013. In exercise of the powers conferred under section 26 of the Punjab Procurement Regulatory Authority Act 2009 (*VIII of 2009*), Governor of the Punjab is pleased to make the following rules:

1. Short title and commencement.– (1) These rules may be cited as the Punjab Procurement Rules 2014.

(2) They shall come into force at once.

**CHAPTER-I
GENERAL PROVISIONS**

2. Definitions.–(1) In these rules:

- (a) 'Act' means the Punjab Procurement Regulatory Authority Act 2009 (*VIII of 2009*);
- (b) 'advertisement' means an advertisement published in the manner prescribed under rule 12;
- (c) 'applicant' means a person or firm who seek to be enlisted or to be prequalified or to be shortlisted in response to the advertisement given by the procuring agency;
- (d) 'associate' means any agency or person with whom the consultant associates in order to provide any part of the services;
- (e) 'Authority' means the Punjab Procurement Regulatory Authority;

- (f) 'bid' means a tender or an offer, in response to an invitation, by a person, consultant, firm, company or an organization expressing his or its willingness to undertake a specified task at a price;
- (g) 'bidding document' means a document or a set of documents prescribing the quantity, quality, characteristics, conditions and procedures of the transactions prior to the actual procurement and on the basis of which bidders prepare their bids;
- (h) 'bid security' means the bank guarantee or other form of security submitted by a bidder together with a bid to secure the obligations of the bidder participating in a bidding proceedings;
- (i) 'competitive bidding' means a procedure leading to the award of a contract whereby all the interested persons, firms, companies or organizations may bid for the contract;
- (j) 'competent authority' means the head of the procuring agency or any other officer authorized to act as competent authority;
- (k) 'completion date' means the date of completion of the procurement certified by the procuring agency;
- (l) 'consultant' means a person or firm who or which is qualified by appropriate education and relevant experience for provision of consultancy services;
- (m) 'consultancy services' means services requiring adequate technical expertise and financial capability in undertaking specific assignment or project and may be of an intellectual nature and differ from the other types of services directly connected with the procurement of goods and works in which the physical component of the activity

is the main function and often involves equipment intensive assignments and may include:

- (i) advisory and review services;
 - (ii) pre-investment or feasibility studies;
 - (iii) construction supervision;
 - (iv) management and related services, and
 - (v) other technical services or special studies;
 - (vi) design; and
 - (vii) surveys and investigations;
- (n) 'contract' means the agreement proposed to be entered into between the procuring agency and the successful bidder;
- (o) 'contractor' means a person, firm, company or an organization who or which undertakes to supply goods, services or works and includes a consultant;
- (p) 'corrupt and fraudulent practice' means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official or the contractor in the procurement process or in contract execution to the detriment of the procuring agency; 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 procuring agency 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; it may include any of the following practices:
- (i) coercive practice by impairing or harming, or threatening to impair or harm, directly or indirectly,

- any party or the property of the party to influence the actions of a party to achieve a wrongful gain or to cause a wrongful loss to another party;
- (ii) collusive practice by arrangement between two or more parties to the procurement process or contract execution, designed to achieve with or without the knowledge of the procuring agency to establish prices at artificial, noncompetitive levels for any wrongful gain;
 - (iii) corrupt practice by offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the acts of another party for wrongful gain;
 - (iv) fraudulent practice by any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
 - (v) obstructive practice by harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract or deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements before investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or acts intended to materially impede the exercise of inspection and audit rights;

- (q) 'emergency' means natural calamity, disaster, accident, war and operational emergency which may give rise to abnormal situation requiring prompt and immediate action to limit or avoid damage to person, property or the environment;
- (r) 'evaluation committee' means a committee constituted by the procuring agency to evaluate tender or proposal to ascertain whether the bid's proposal or tender correspond to the evaluation criteria formulated by the procuring agency;
- (s) 'evaluation report' means the report prepared after the evaluation of tenders, quotations, expression of interest, or proposal;
- *(sa) 'framework contract' means a contract whereby the procurement is made for a certain volume or quantity of a particular good, a set of goods, services or works over a specific period against an agreed sum or rate per item or lump sum.
- (t) 'Government' means Government of the Punjab;
- (u) 'large consultancy' means a consultancy where the cost of consultancy exceeds **one** million rupees for individual consultant and five million rupees for consulting firms and the duration of large consultancy for an individual consultant shall not exceed twelve months;
- (v) lowest evaluated bid means:
 - (i) a bid most closely conforming to evaluation criteria and other conditions specified in the bidding document; and
 - (ii) having lowest evaluated cost;

- (w) 'performance guarantee' means the bank guarantee or other form of security submitted by the contractor to secure obligations under the contract in accordance with the requirement in the bidding document;
- (x) 'pre-qualification' means a procedure for demonstrating qualification as a pre-condition for being invited to tender;
- (y) 'proposal' means the technical proposal or the financial proposal submitted by a bidder;
- (z) 'repeat orders' means procurement of the same commodity from the same source;
- (aa) 'responsive' means qualified for consideration on the basis of declared evaluation criteria and specified in the bid document or in the request for proposal;
- (ab) 'short consultancy' means consultancy where the cost of consultancy does not exceeds one million rupees for individual consultant and five million rupees for consulting firms and duration of the short consultancies for an individual consultants shall not exceed six months;
- (ac) 'supplier' means a person, firm, company or an organization who or which undertakes to supply goods, services or works;
- (ad) 'urgency' means a limited timeline for the accomplishment of procurement which cannot be met through open and limited bidding method; and
- (ae) 'value for money' means the best returns for each rupee spent in terms of quality, timeliness, reliability, after sales service, up-grade ability, price, source, and the combination of whole-life cost and quality to meet the procuring agency's requirements.

(2) The expression used but not defined in these rules shall have the same meanings as is assigned to it in the Act.

3. Scope and applicability.– Save as otherwise provided, these rules shall apply to all procurements made by all procuring agencies whether within or outside the Punjab.

4. Principles of procurements.– A procuring agency, while making any procurement, shall ensure that the procurement is made in a fair and transparent manner, the object of procurement brings value for money to the procuring agency and the procurement process is efficient and economical.

5. International commitments of the Government.– If any provision of these rules is in conflict with any obligation or commitment of the Government arising out of an international agreement with a state or states, or any international financial institution, the provisions of such international agreement, to the extent of conflict, shall prevail.

6. Language.–(1) Subject to sub-rule (2), all communication and documentation relating to procurements of the Government shall either be in Urdu or English or both.

(2) When any procurement is required to be made from any state outside Pakistan, the language of that state may also be used in addition to Urdu or English but the original documentation for purposes of record, even in that case, shall be in Urdu or English and the translation in such other language may be used for any other purpose.

(3) In case of conflict, the original documentation on record shall prevail.

7. Integrity pact.– Procurement exceeding the limit specified in the regulations shall be subject to an integrity pact between the procuring agency and a contractor.

CHAPTER-II PROCUREMENT PLANNING

8. Procurement planning.– A procuring agency shall, within one month from the commencement of a financial year, devise annual planning for all proposed procurements with the object of realistically determining the requirements of the procuring agency, within its available resources, delivery time or completion date and benefits that are likely to accrue to the procuring agency in future.

9. Limitation on splitting of procurement.– Save as otherwise provided and subject to the regulations, a procuring agency 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.

(2) The procuring agency shall advertise in advance annual requirements for procurement on the website of the Authority as well as on its website.

10. Specifications.–(1) A procuring agency shall determine specifications in a manner to allow the widest possible competition which shall not favour any single contractor nor put others at a disadvantage.

(2) The specifications shall be generic and shall not include references to brand names, model numbers, catalogue numbers or similar other classifications but if the procuring agency is satisfied that the use of, or a reference to, a brand name or a catalogue number is essential to complete an otherwise incomplete specification, such use or reference shall be qualified with the words "or equivalent".

(3) The provisions contained in sub-rules (1) and (2) shall not apply to any procurement made by a procuring agency which is a public sector commercial concern on the demand of a private sector client specifying, in writing, a particular brand, model or classification of equipment, machinery or other objects.

11. Approval mechanism.– All procuring agencies shall provide clear authorization and delegation of powers for different categories of procurement and shall initiate procurements after prior approval of the competent authority.

CHAPTER-III ADVERTISEMENT

12. Method of advertisement.– (1) Subject to rule 59, a procuring agency shall advertise procurement of more than one hundred thousand rupees and up to the limit of two million rupees on the website of the Authority in the manner and format specified by regulations but if deemed in public interest, the procuring agency may also advertise the procurement in at least one national daily newspaper.

(2) Subject to rule 13, any procurement exceeding two million rupees shall be advertised on the website of the Authority, the website of the procuring agency, if any, and in at least two national daily newspapers of wide circulation, one in English and one in Urdu.

(4) A procuring agency shall ensure that the information posted on the website is complete for purposes for which it has been posted, and such information shall remain available on that website until the closing date for the submission of bids.

13. Exceptions.– The requirement of advertisement mentioned in rule 12, may be dispensed with after prior approval of the Authority in the following cases:

- (a) the proposed procurement pertains to national security and its publication may jeopardize or compromise the objectives of national security; and
- (b) the publication of advertisement or notice of the proposed procurement involves disclosure of information which is proprietary in nature or falls within the definition of intellectual property which is available from a single source.

14. Response time.– (1) The procuring agency may decide the response time for receipt of bids or proposals (including proposals for prequalification) from the date of publication of an advertisement or notice keeping in view the complexity of the procurement, availability and urgency but, in no circumstances, the response time shall be less than fifteen days for national competitive bidding and thirty days for international competitive bidding from the date of publication of advertisement or notice.

(2) All advertisements or notices shall expressly mention the response time allowed for the procurement along with the information for collection of bid documents which shall be issued till a given date, allowing sufficient time to complete and submit the bid by the closing date but the time limit shall not apply in case of an emergency procurement.

(3) The response time shall be calculated from the date of publication of the advertisement in a newspaper or on the website, whichever is later.

***15. Framework contract.**–(1) A procuring agency may procure goods, services or works through framework contract in order to ensure uniformity in the procurement.

(2) The procuring agency shall adopt any of the methods of procurement mentioned in these rules for purposes of entering into a framework contract.

CHAPTER-IV PREQUALIFICATION, QUALIFICATION AND DISQUALIFICATION

16. Prequalification.– (1) Subject to sub-rule (2), a procuring agency may, prior to floating the tenders or invitation to proposals or offers, engage in prequalification of bidders in case of services, civil works, turnkey projects and also in case of procurement of expensive and technically complex equipment to ensure that only technically and

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financially capable firms or persons having adequate managerial capacity are invited to submit bids.

(2) The procuring agency shall prequalify bidders under sub-rule (1) in case of procurement of goods of one hundred million rupees and above and large consultancy, except where a procuring agency, for reasons to be recorded in writing, dispenses with the requirement of prequalification of bidders.

(3) For purposes of the prequalification of bidders, a procuring agency shall take into consideration the following factors:

- (a) qualifications;
- (b) relevant experience and past performance;
- (c) capabilities with respect to personnel, equipment, and plant;
- (d) financial position;
- (e) appropriate managerial capability; and
- (f) any other factor that a procuring agency may deem relevant, not being inconsistent with these rules.

(4) The procuring agency shall ensure that the prequalification is based on the capacity of the interested parties to satisfactorily perform the services or works.

(5) In case of fast track projects where the time is the essence or where potential consultants are limited or the assignment is of a complex nature, the procuring agency may, after recording reasons and with the approval of Provincial Development Working Party, invite a request for proposals through public notice under rule 12.

17. Prequalification process.– (1) The procuring agency engaging in prequalification shall announce, in the prequalification documents, all information required for prequalification including instructions for preparation and submission of the prequalification documents,

evaluation criteria, list of documentary evidence required by contractors to demonstrate their respective qualifications and any other information that the procuring agency deems necessary for prequalification.

(2) The procuring agency shall provide a set of prequalification documents to any contractor, on request and subject to payment of such price as the procuring agency may determine to defray the cost on account of printing and provision of the document.

(3) The procuring agency shall promptly inform the contractor who has applied for the prequalification whether or not he has been prequalified and shall, on request from the applicant who had applied for prequalification, a list of contractors who have been prequalified.

(4) On a request, the procuring agency shall communicate to the contractor who has not been prequalified the reasons for not prequalifying the contractor.

(5) Only the prequalified contractors shall be entitled to participate in the subsequent procurement proceedings.

18. Qualification.— A procuring agency, at any stage of the procurement proceedings, having credible reasons for, or prima facie evidence of, any defect in the capacity or otherwise of a contractor, whether or not prequalified, may require the contractor to provide such further information concerning the professional, technical, financial, legal or managerial competence as the procuring agency may decide.

19. Disqualification.— The procuring agency shall disqualify a contractor on the ground that he had provided false, fabricated or materially incorrect information.

20. Declaration of ineligibility.— (1) Subject to rule 21, the procuring agency may, after providing an opportunity of hearing, declare, through a notification, an applicant for prequalification as ineligible for participating in any public procurement process for such

period as it may determine on account of his engaging, directly or through an agent, in corrupt or fraudulent practice.

(2) A copy of the notification shall be provided to the affected person and to the Authority.

21. Blacklisting.-(1) Every procuring agency shall specify a mechanism and manner for purposes of barring a contractor from participating in any procurement process of the procuring agency.

(2) Subject to sub-rule (3), if a procuring agency is satisfied that a contractor has acted in a manner detrimental to the public interest or good practices or has consistently failed to perform his obligation under the contract or his performance has not been up to mark or he is found indulging in corrupt or fraudulent practice, the procuring agency may, after affording him an opportunity of hearing and through a notification, debar him from participating in any public procurement process of the procuring agency for such period as the procuring agency may determine in the light of the circumstances of the case.

(3) In case a procuring agency issues a notification under sub-rule (2), the procuring agency shall, for reasons to be recorded, inform the Authority to debar the contractor for procurement of all procuring agencies.

(4) Before passing any order on any such information under sub-rule (3), the Authority may call for such information or record from the procuring agency and, after affording the aggrieved person an opportunity of hearing, pass such orders as may be deemed necessary.

(5) Any person aggrieved by an order under sub-rule (2) may, within thirty days, file a representation before the Authority and the Authority may pass such orders on the representation as it may deem fit.

(6) Any person aggrieved by an order under sub-rule (4) may, within thirty days, file a representation before the Chairperson of the Board and the Chairperson may, after affording an opportunity of hearing to the aggrieved person, pass such orders on the representation as may be necessary.

CHAPTER-V METHODS OF PROCUREMENT

22. Principal method of procurement.– Save as otherwise provided hereinafter, the procuring agencies shall use **open competitive bidding** as the principal method of procurement for the procurement of goods, services and works.

23. Open competitive bidding.– Subject to rules 24 to 38, the procuring agencies shall engage in open competitive bidding if the cost of procurement is more than the prescribed financial limit.

24. Submission of bids.– (1) A bidder shall submit a bid in a sealed package or packages in such manner that the contents of the bid are fully enclosed and cannot be known until duly opened.

(2) A procuring agency shall specify the manner and method of submission and receipt of bids in an unambiguous and clear manner in the bidding documents.

25. Bidding documents.– (1) A procuring agency shall formulate precise and unambiguous bidding documents that shall be made available to the bidders immediately after the publication of the invitation to bid.

(2) For competitive bidding, whether open or limited, the bidding documents shall include the following:

- (a) invitation to bid;
- (b) instructions to bidders;
- (c) form of bid;
- (d) form of contract;
- (e) general or special conditions of contract;

- (f) specifications and drawings or performance criteria (where applicable);
- (g) list of goods or bill of quantities (where applicable);
- (h) delivery time or completion schedule;
- (i) qualification criteria (where applicable);
- (j) bid evaluation criteria;
- (k) format of all securities required (where applicable);
- (l) details of standards (if any) that are to be used in assessing the quality of goods, works or services specified; and
- (m) any other detail not inconsistent with these rules that the procuring agency may deem necessary.

(3) Any information that becomes necessary for bidding or for bid evaluation, after the invitation to bid or issue of the bidding documents to the prospective bidders, shall be provided in a timely manner and on equal opportunity basis.

(4) Where any change becomes essential in the procurement process, such change shall be made in a manner similar to that of the original advertisement.

(5) A procuring agency shall use standard bidding documents as and when notified under the regulations.

(6) Until the standard bidding documents are specified under the regulations, a procuring agency may use bidding documents already in use of the procuring agency to the extent they are not inconsistent with these rules.

(7) The procuring agency shall, on payment of such fee as the procuring agency may determine keeping in view the cost of printing and provision of the documents, provide a set of bidding documents to the prospective bidders.

26. Reservations and preference.– (1) A procuring agency shall allow all prospective bidders to participate in procuring procedure without regard to nationality except in cases in which any procuring agency decides to limit such participation to national bidders only or prohibit participation of bidders of some nationalities in accordance with the policy of the Government.

(2) A procuring agency shall allow for a preference to domestic or national contractor in accordance with the policies of the Government and the magnitude of price preference to be accorded shall be clearly mentioned in the bidding documents under the bid evaluation criteria.

27. Bid security.– The procuring agency may require the bidders to furnish a bid security not exceeding five per cent of the bid price.

28. Bid validity.– (1) A procuring agency, keeping in view the nature of the procurement, shall subject the bid to a bid validity period.

(2) The bids shall be valid for the period of time specified in the bidding document.

(3) Subject to sub-rule (5), a procuring agency shall ordinarily be under an obligation to process and evaluate the bids within the stipulated bid validity period but, under exceptional circumstances and for reasons to be recorded in writing, if an extension is considered necessary, all the bidders shall be requested to extend their respective bid validity period but such extension shall not be for more than the original period of bid validity.

(4) A bidder who:

(a) agrees to the extension of the bid validity period shall also extend the validity of the bid bond or security for the extended period of the bid validity;

- (b) agrees to the procuring agency's request for extension of bid validity period shall not be permitted to change the substance of the bid; and
- (c) does not agree to an extension of the bid validity period shall be allowed to withdraw the bid without forfeiture of the bid bond or security.

(5) The competent authority of the procuring agency shall not extend bid validity period without obtaining prior approval of the authority next above the competent authority and if the chief executive of an autonomous procuring agency is the competent authority then next higher authority in such a case shall be the board, syndicate or any other apex body of the procuring agency.

29. Extension of time for submission of bids.– If a procuring agency considers that it is necessary in public interest to extend the last date for the submission of the bids, it may, after recording reasons, do so in the manner similar to the original advertisement.

CHAPTER-VI OPENING, EVALUATION AND REJECTION OF BIDS

30. Opening of bids.– (1) The date for opening of bids and the last date for the submission of bids shall be the same; and, bids shall be opened at the time specified in the bidding documents which shall not be less than thirty minutes after the closing time for the submission of the bids.

(2) All bids shall be opened publicly in the presence of the bidders or their representatives who may choose to be present, at the time and place announced prior to the bidding and the procuring agency shall read aloud the unit price as well as the bid amount and shall record the minutes of the bid opening.

(3) All bidders in attendance at the time of opening of the bids shall sign an attendance sheet.

(4) The bids submitted after the closing time prescribed shall be rejected and returned without being opened.

31. Evaluation criteria.– (1) A procuring agency shall formulate an appropriate evaluation criterion listing all the relevant information against which a bid is to be evaluated and such evaluation criteria shall form an integral part of the bidding documents.

(2) Failure to provide for an unambiguous evaluation criteria in the bidding documents shall amount to mis-**procurement**.

32. Evaluation of bids.– (1) All bids shall be evaluated in accordance with the evaluation criteria and other terms and conditions set forth in the prescribed bidding document.

(2) For purposes of comparison of the bids quoted in different currencies, the price shall be converted into a single currency specified in the bidding documents and the rate of exchange shall be the selling rate, prevailing on the date of opening of bids specified in the bidding documents, as notified by the State Bank of Pakistan on that day.

(3) A bid once opened in accordance with the prescribed procedure shall be subject to only those rules, regulations and policies that are in force at the time of issue of notice for invitation of bids.

33. Clarification of bids.– (1) No bidder shall be allowed to alter or modify his bid after the closing time for the submission of the bids.

(2) The procuring agency may, if necessary after the opening of the bids, seek and accept such clarifications of the bid as do not change the substance of the bid.

(3) Any request for clarification in the bid, made by the procuring agency and its response, shall invariably be in writing.

34. Discriminatory and difficult conditions.– Save as otherwise provided, no procuring agency shall introduce any condition, which discriminates between bidders or which is difficult to meet.

Explanation.– 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.

35. Rejection of bids.– (1) The procuring agency may reject all bids or proposals at any time prior to the acceptance of a bid or proposal.

(2) The procuring agency shall upon request communicate to any bidder, the grounds for its rejection of all bids or proposals, but shall not be required to justify those grounds.

(3) The procuring agency shall incur no liability, solely by virtue of its invoking sub-rule (1) towards the bidders.

(4) The bidders shall be promptly informed about the rejection of the bids, **if any**.

36. Re-bidding.– If the procuring agency rejects all the bids under rule 35, it may proceed with the process of fresh bidding but before doing that it shall assess the reasons for rejection and may, if necessary, revise specifications, evaluation criteria or any other condition for bidders.

37. Announcement of evaluation reports.– A procuring agency shall announce the results of bid evaluation in the form of a report giving justification for acceptance or rejection of bids at least ten days prior to the award of procurement contract.

38. Procedures for selection of contractors.– (1) Save as otherwise provided in these rules, single stage one envelope bidding procedure shall ordinarily be the main open competitive bidding procedure used for the procurement of works and standard goods.

(2) Other appropriate procedures for selection of contractors other than consultants may be adopted in the following circumstances:

- (a) single stage two envelopes bidding procedure shall be used for procurement of such goods where the bids are to be evaluated on technical and financial

grounds and the procedure for single stage two envelopes shall be:

- (i) the bid shall be a single package consisting of two separate envelopes, containing separately the financial and the technical proposals;
- (ii) the envelopes shall be marked as "Financial Proposal" and "Technical Proposal";
- (iii) in the first instance, the "Technical Proposal" shall be opened and the envelope marked as "Financial Proposal" shall be retained unopened in the custody of the procuring agency;
- (iv) the procuring agency shall evaluate the technical proposal in the manner prescribed in advance, without reference to the price and shall reject any proposal which does not conform to the specified requirements;
- (v) during the technical evaluation no amendments in the technical proposal shall be permitted;
- (vi) after the evaluation and approval of the technical proposals, the procuring agency shall open the financial proposals of the technically accepted bids, publically at a time, date and venue announced and communicated to the bidders in advance, within the bid validity period;
- (vii) the financial bids found technically non-responsive shall be returned un-opened to the respective bidders; and

- (viii) the lowest evaluated bidder shall be awarded the contract;
- (b) two stage bidding procedure may be adopted in large and complex contracts where technically unequal proposals are likely to be encountered or where the procuring agency is aware of its options in the market but, for a given set of performance requirements, there are two or more equally acceptable technical solutions available to the procuring agency and the bidding procedure shall be:

First stage

- (i) in the first instance, the bidders shall submit, according to the required specifications, a technical proposal without quoting price;
- (ii) the technical proposal shall be evaluated in accordance with the specified evaluation criteria and may be discussed with the bidders regarding any deficiencies and unsatisfactory technical features;
- (iii) after such discussions, all the bidders shall be permitted to revise their respective technical proposals to meet the requirements of the procuring agency;
- (iv) the procuring agency may revise or modify any aspect of the technical requirements or evaluation criteria, or it may add new requirements or criteria not inconsistent with these rules but any revisions or modifications shall be communicated to all the bidders at the time of invitation to submit final bids, and

sufficient time shall be allowed to the bidders to prepare their revised bids but such time shall not be less than fifteen days in the case of national competitive bidding and thirty days in case of international competitive bidding;

- (v) the bidders unwilling to conform their respective bids to the procuring agency's technical requirements may withdraw from the bidding without forfeiture of their bid security;

Second stage

- (i) the bidders, whose technical proposals or bids have not been rejected and who are willing to conform their bids to the revised technical requirements of the procuring agency, may submit a revised technical proposal along with the financial proposal;
- (ii) the fresh and revised technical proposals and the financial proposals shall be opened at a time, date and venue announced and communicated to the bidders in advance but in setting the date for the submission of the revised technical proposals and financial proposals, a procuring agency shall allow sufficient time to the bidders to incorporate the agreed changes in the technical proposal and prepare their financial proposals accordingly; and
- (iii) the revised technical proposal and the financial proposal shall be evaluated in the manner prescribed above and the lowest evaluated bid shall be accepted;

- (c) two stage two envelope bidding method shall be used for procurement where alternative technical proposals are possible, such as certain types of machinery or equipment or manufacturing plant and the procedure shall be:

First stage

- (i) the bid shall comprise a single package comprising two separate envelopes containing the financial proposal and the technical proposal;
- (ii) the envelopes shall be marked as "Financial Proposal" and "Technical Proposal";
- (iii) in the first instance, the envelope marked "Technical Proposal" shall be opened and the envelope marked as "Financial Proposal" shall be retained unopened in the custody of the procuring agency;
- (iv) the technical proposals shall be discussed with the bidders with reference to the procuring agency's technical requirements;
- (v) those bidders willing to meet the requirements of the procuring agency shall be allowed to revise their technical proposals following these discussions; and
- (vi) bidders not willing to conform to the technical proposal as per revised requirements of the procuring agency shall be allowed to withdraw their respective bids without forfeiture of their bid security;

Second stage

- (i) after agreement between the procuring agency 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;
- (ii) 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 agency:

Provided that in setting the date for the submission of the revised technical proposals and supplementary price proposals a procuring agency shall allow sufficient time to the bidders to incorporate the agreed changes in the technical proposal and to prepare the required supplementary financial proposal;
and
- (iii) the procuring agency shall evaluate the whole proposal in accordance with the evaluation criteria and the lowest evaluated bid shall be accepted.

CHAPTER-VII PROCUREMENT OF CONSULTANCY SERVICES

39. Rights and obligations.– The rights and obligations of the procuring agency and the consultant are governed by general and special conditions of contract signed between the procuring agency and the consultant.

40. Consultant Selection Committee.– Every procuring agency, for the selection of consultant, except for short consultancies, shall set up a Consultant Selection Committee of odd number members, which shall consist of the following:

- (a) head of the procuring agency who shall be its chairperson.
- (b) a nominee of the Planning and Development Department, a nominee of the Finance Department, as members; a representative of the procuring agency, as a member (secretary);
- (c) the procuring agency may co-opt up to two members, having adequate technical knowledge and experience in the relevant field, for assistance in a given assignment that requires technical input.

41. Quorum.– Three members, including the chairman of the Consultant Selection Committee, shall form quorum for conducting the business of the Consultant Selection Committee.

42. Decision by simple majority.– All decision of the Consultant Selection Committee shall be made by majority of the members present and voting.

43. Functions and responsibilities of Committee.– The Consultant Selection Committee shall perform the following functions:

- (a) short listing of consultants, responding to the expression of interest, where applicable, in accordance with the criteria mentioned in the expression of interest;
- (b) approval of request for proposal before issuance;
- (c) evaluation of technical and financial proposals, according to the selection method and evaluation criteria, mentioned in the request for proposal, and in accordance with the provisions of these rules; and
- (d) finalization of recommendation for selection of consultants based on evaluation criteria.

44. Selection of consultants.– Depending upon the selection method, the procuring agency shall include, among others, the following steps in the process of selection of a consultant:

- (a) preparation and approval of the terms of reference of the assignment;
- (b) preparation of the cost estimate or budget of the assignment;
- (c) public advertisement of invitation of consultants' expressions of interest and their short-listing;
- (d) preparation and issuance of the request for proposal to the shortlisted consultants;
- (e) preparation and submission of proposals by the consultants;
- (f) evaluation of technical proposals; and
- (g) opening and evaluation of financial proposals.

45. Methods for selection of consultants.– (1) A procuring agency may utilize one of the methods mentioned in succeeding sub-rules for selection of a consultant.

(2) Least Cost Selection: This is the preferred method for selecting consultants for assignments of standard or routine nature such as audit, simple engineering design or supervision of noncomplex works, where the well-established practices and standards exist.

(3) Quality and Cost Based Selection: This method may be used where:

- (a) quality is the prime consideration while cost is a secondary consideration;
- (b) terms of Reference are well defined;
- (c) the financial proposals of only those technically responsive bidders who obtained minimum sixty five percent marks shall be opened;

- (d) a combined evaluation of the technical and financial proposals is carried out by weighting and adding the quality and the cost scores;
- (e) the weight for quality is normally of eighty percent with twenty percent given to cost and more than twenty percent weight to the cost of the services is justified only in relatively routine and straightforward assignments (such as design of simple structures), whereas in no cases it should exceed thirty percent and the consultant obtaining the highest combined score is invited for negotiations;

(4) Quality Based Selection: This system may be used for highly specialized, innovative and complex assignments, where quality is the predominant factor.

(5) Subject to sub-rule (6), a procuring agency may, in a complex project and with the prior approval of the Government, engage, through direct contracting, an organization owned or controlled by the Government, the Federal Government or any other Provincial Government.

(6) In case of engagement of an organization under sub-rule (5), the procuring agency shall:

- (a) record reasons in writing for direct contracting and shall issue a certificate of reason-ability of the negotiated price of consultancy based on the principles of procurement contained in rule 4; and
- (b) obtain approval of the Authority to the extent of declaring the project as complex project.

(7) A procuring agency may, after recording reason in writing, use any method for selection of consultant other than least cost selection.

46. Selection process of individual consultant.- The following shall be the **selection process** of individual consultant:

- (a) individual consultant may not be required to submit proposals and shall be selected based on the qualifications and experience for the assignment;
- (b) individual consultant shall be selected by comparing the qualifications and experience of at least three consultants among those who have expressed interest in the assignment or have been approached directly by the procuring agency;
- (c) individual consultant considered for the comparison of qualifications and experience shall meet the minimum relevant qualifications, and the one selected to be employed by the procuring agency shall be the best qualified and shall be fully capable of carrying out the assignment;
- (d) individual consultant may be selected on a single-source basis (with due justification) in exceptional cases such as an emergency situation resulting from a natural disaster or where the individual is the only consultant qualified for the assignment;
- (e) for key assignments, interviews may be set up, if required.

47. Expression of interest.- (1) A request for expression of interest shall be advertised in accordance with the provisions of rule 12 and rule 13.

(2) The expression of interest shall contain the following information:

- (a) the name and address of procuring agency;

- (b) an appropriate description of the assignment providing scope of the intellectual and professional services required;
- (c) closing date and place of the submission of the expression of interest;
- (d) criteria for short listing or prequalification where required; and
- (e) any other information that the procuring agency may deem appropriate to disseminate at this stage.

48. Request for proposals.– (1) A procuring agency shall use a request for proposal for seeking proposals from the shortlisted or pre-qualified consultants which shall include the following:

- (a) letter of invitation: the letter of invitation shall mention the name and address of the procuring agency and its intention to enter into a contract for provision of consulting services and contain names of all the short listed firms;
- (b) instruction to consultants: the instructions to consultants shall contain all necessary information that may help them prepare responsive proposals;
- (c) terms of reference: the terms of reference shall unambiguously define the objectives, goals and scope of the assignment, core team of required experts, expected deliverables with timelines and list of services necessary to carry out the assignment;
- (d) evaluation criteria: except as otherwise provided, the evaluation of proposals shall be carried out giving due consideration to quality and cost;
- (e) type of contract: a procuring agency, depending on the circumstances, may use one of the following types of contracts:

- (i) lump sum contract shall be used mainly for assignments in which the content, duration of the services and the required output are unambiguously defined;
 - (ii) time based contract shall be used when it is difficult to define the scope and the length of services;
 - (iii) hourly or daily rates shall be used for small projects, especially when the assignment is for less than a month; and
 - (iv) any other, based on combination of the above and including out of pocket expenses, where required;
- (f) special provisions: a procuring agency may specify any other requirement related to the assignment or contract, where required.

(2) A procuring agency shall invite the prospective consultants to submit their technical and financial proposals in separately sealed envelopes and the procuring agency shall give deadline for submission of proposals but the consultants shall be given adequate time to prepare their proposals which shall not be less than two weeks.

49. Single complying proposal.—If one complying bid is received, the procuring agency may award the contract to the bidder.

50. Evaluation of quality of consulting services.— Evaluation criteria for technical evaluation of consultants shall include the following:

- (a) experience: the consultants specialized skills, working on the similar assignment and access to particular technologies related to the assignment;
- (b) financial capability: financial capability of the consultant may be evaluated with a view to ensuring that the consultant can complete the assigned task in a timely manner;

- (c) approach and methodology: the methodology proposed by the consultants shall be evaluated for its innovativeness and soundness;
- (d) quality management: the availability of a well-established quality management system may be taken into account for large and complex assignments; and
- (e) staff proposed: qualification and experience of the proposed staff of the consultant in the relevant field.

51. Association of consultants.– (1) An association of consultants may take either the form of a joint venture or a subcontract and such association may participate in procurement process with the permission of the procuring agency.

(2) Under a joint venture, all members, if awarded the contract, shall individually sign and be jointly and severally liable for the entire assignment and such an association may be known as a consortium, association or joint venture.

52. Intellectual property rights.– (1) All documents, reports, designs, research work and all deliverables prepared by the consultant shall become and remain the property of the procuring agency.

(2) Any restrictions on the future use of these documents and software by the consultant shall be specified in the conditions of the contract.

53. Negotiations.– (1) Notwithstanding the provision under rule 57, the procuring agency may negotiate with the highest ranked bidder for consultancy regarding methodology, work plan, staffing, contract price and special conditions of the contract.

(2) In case of failure of negotiations, the procuring agency may invite the next ranked bidder.

(3) A committee of the procuring agency shall negotiate with the consultant and negotiation by a single person on behalf of the procuring agency shall not be allowed.

54. Professional liability of consultant.– (1) The consultant selected and awarded a contract shall be liable for consequence of errors or omissions on the part of the consultant.

(2) The extent of liability of the consultant shall form part of the contract and such liability shall not be less than remunerations nor it shall be more than twice the remunerations.

(3) The procuring agency may demand insurance on part of the consultant to cover the liability of the consultant and necessary costs shall be borne by the consultant.

(4) The consultant shall be held liable for all losses or damages suffered by the procuring agency on account of any misconduct by the consultant in performing the consulting services.

CHAPTER-VIII ACCEPTANCE OF BIDS AND AWARD OF CONTRACTS

55. Acceptance of bids.– Subject to these rules, the bidder with the lowest evaluated bid, if not in conflict with any other law, shall be awarded the procurement contract within the original or extended bid validity period.

56. Performance guarantee.– Where needed and clearly expressed in the bidding documents, the procuring agency shall require the successful bidder to furnish a performance guarantee which shall not exceed ten percent of the contract amount.

57. Limitation on negotiations.– (1) Save as otherwise provided in these rules, a procuring agency shall not negotiate with any of the bidders.

(2) In case of goods of highly technical nature, the procuring agency shall ensure that the bidders submit the revised financial bids immediately after opening of the financial bids in the same manner as

the earlier financial bids were submitted and the procuring agency shall not allow extra time for submission of revised financial bids by the bidders.

(3) In this rule, the expression 'goods of highly technical nature' means all goods including machinery, its parts and micro-components, industrial, scientific or electronic equipment, plant and tools which are sophisticated in nature costing more than fifty million rupees and procured by adopting the two stages-two envelope procurement procedures.

58. Confidentiality.– The procuring agency shall keep all information regarding the bid evaluation confidential until the time of the announcement of the evaluation report.

59. Alternative methods of procurements.– A procuring agency may utilize the following alternative methods of procurement of goods, services and works:

- (a) petty purchases: a procuring agency may provide for petty purchases where the object of the procurement is below the financial limit of fifty thousand rupees and such procurement shall be exempted from the requirements of bidding or quotation of prices; the procuring agency shall, however, ensure that procurement of petty purchases is in conformity with the principles of procurement;
- (b) petty purchases through quotation: a procuring agency may provide for petty purchases through at least three quotations where the cost of the procurement is more than fifty thousand rupees but less than one hundred thousand rupees and such procurement shall be exempted from the requirements of bidding procedures; the procuring agency shall, however, ensure that such procurement is in conformity with the principles of procurement;

- (c) direct contracting: a procuring agency shall only engage in direct contracting if any of the following conditions exist:
- (i) the procurement concerns the acquisition of spare parts or supplementary services from original manufacturer or supplier when the same are not available from alternative sources;
 - (ii) only one manufacturer or supplier exists for the required procurement but in such a case, the procuring agency shall specify the appropriate fora which may authorize procurement of proprietary object after due diligence; and
 - (iii) where a change of supplier may result in acquisition of material having different technical specifications or characteristics that may cause incompatibility or disproportionate technical difficulties in operation and maintenance; and the contract does not exceed three years in duration;
 - (iv) repeat orders not exceeding fifteen percent of the original procurement;
 - (v) in case of an emergency but the procuring agency shall specify appropriate fora vested with necessary authority to declare an emergency;
 - (vi) when the price of goods, services or works is fixed by the Government or any other authority, agency or body under the law; and
 - (vii) for purchase of motor vehicle from local original manufacturers or their authorized agents at manufacturer's price.
- (d) negotiated tendering: a procuring agency may engage in negotiated tendering with one or more contractors with or without prior publication of a procurement notification but this procedure shall only be used when:

- (i) 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;
- (ii) for technical or artistic 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;
- (iii) for reasons of extreme urgency brought about by events unforeseeable by the procuring agency, the time limits laid down for open and limited bidding methods cannot be met, however, the circumstances invoked to justify extreme urgency must not be attributable to the procuring agency; and
- (iv) the Provincial Cabinet, for reason to be recorded in writing, approves any specific procurement to be made on urgent basis and shall fix the time for such urgency.

60. Unsolicited proposal.– In case of unsolicited proposal received for any engineering, procurement and construction project involving cost of one ***thousand** million rupees and above, the procuring agency shall process the proposal to ascertain its viability and after such process if the proposal is found viable, the procuring agency:

- (a) shall advertise the proposal for open competition without disclosing the name of the initiator of unsolicited proposal;
- (b) shall conduct prequalification process;
- (c) shall exempt the initiator of the unsolicited proposal from the prequalification;
- (d) if no other bidder in response to the advertisement submits bid, the procuring agency may award the contract to the initiator of the proposal;

- (e) in case of bidding competition, the initiator of the proposal shall be given first right of refusal if the initiator does not emerge as the lowest bidder; and
- (f) shall award five percent additional weightage to the initiator of the proposal from the combined score of technical and financial evaluation.

61. Exemption.– (1) The Government or the Board shall not exempt application of these rules for procurement of services.

(2) The Board may exempt application of these rules for procurement of goods from a public sector manufacturing unit through direct contracting involving procurement of five hundred thousand rupees or less.

(3) For all procurements beyond the prescribed or enhanced limit, the procuring agency shall give the first right of refusal to a public sector manufacturing unit participating in the bidding process or competition.

62. On account payments.– A procuring agency shall make prompt payments to the contractor against the invoice or running bill on satisfactory performance within the time given in the conditions of the contract which shall not exceed thirty days.

63. Commencement of 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 and such notice of acceptance or purchase order shall be issued within a reasonable time; or
- (b) where the procuring agency requires signing of a written contract, from the date on which the signatures of both the procuring agency and the successful bidder are affixed

to the written contract and such affixing of signatures shall take place within a reasonable time; and

- (c) 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.

64. Closing of contract.– (1) Except for defect liability by the contractor, as specified in the conditions of contract, performance of the contract shall be deemed close on the issue of overall 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 to submit final bill.

(2) In case of defect liability, defect liability certificate shall be issued within thirty days of the expiry of the said period enabling the contractor to submit the final bill, except for unsettled claims, which shall be settled through resolution of dispute mechanism provided in the **contract**.

CHAPTER-IX MAINTENANCE OF RECORD AND FREEDOM OF INFORMATION

65. Record of procurement.– (1) A procuring agency shall maintain a record of a procurement along with all associated documents for a minimum period of five years.

(2) Such maintenance of record shall be subject to the regulations framed in this regard from time to time.

66. Public access and transparency.– (1) As soon as a contract has been awarded, the procuring agency shall make all documents related to the evaluation of the bid and award of contract public.

(2) Where the disclosure of any information related to the award of a contract is of proprietary nature or where the procuring agency is convinced that such disclosure shall be against the public

interest, it may withhold only such information from public disclosure subject to the prior approval of the Authority.

CHAPTER-X REDRESSAL OF GRIEVANCES AND SETTLEMENT OF DISPUTES

67. Redressal of grievances by the procuring agency.– (1) The procuring agency shall constitute a committee comprising of odd number of persons, with proper powers and authorizations, to address the complaints of bidders that may occur prior to the entry into force of the procurement contract.

(2) Any bidder feeling aggrieved by any act of the procuring agency after the submission of his bid may lodge a written complaint concerning his grievances not later than ***ten** days after the announcement of the bid evaluation report.

(3) The committee shall investigate and decide upon the complaint within fifteen days of the receipt of the complaint.

(4) Mere fact of lodging of a complaint shall not warrant suspension of the procurement process.

68. Arbitration.– (1) After coming into force of the procurement contract, disputes between the parties to the contract shall be settled through mediation or arbitration.

(2) The procuring agency shall provide for a method of mediation or arbitration or both in the procurement contract.

69. Mis-procurement.– Any violation of these rules shall be treated as mis-procurement.

70. Repeal.– The Punjab Procurement Rules, 2009 issued vide notification No. MD(PPRA)2-1/2010 are hereby **repealed**.

**CHIEF SECRETARY
GOVERNMENT OF THE PUNJAB**

***Substituted** vide Notification No. ADMN(PPRA)10-2/2014 dated 11.03.2014