



Elementary and Secondary Education
Department
Government of Khyber Pakhtunkhwa,
Peshawar

Procurement Guide

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PROCUREMENT GUIDE

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Executive Summary

Procurement is one of the key challenges across the public sector organizations, and it requires sound and comprehensive procurement and contracting policies and practices in place that are flexible enough to meet departmental needs and at the same time ensure fairness, openness and transparency. In this context, preparation of annual procurement plan is a part of good procurement practices and also a legal obligation in the light of promulgated Khyber Pakhtunkhwa Public Procurement Act, 2012 and Khyber Pakhtunkhwa Public Procurement Rules, 2014. Accordingly, it is expected that all public sector procuring entities shall devise a mechanism through which all the intended procurements are forecasted realistically within its available resources, delivery time or completion date and benefits that are likely to accrue to the procuring entity in future. Annual Procurement Plan helps procuring entity to judiciously draw its future requirements for which procurements would be made and, thus, ensure optimal utilization of existing resources within prescribed timelines while fulfilling all codal formalities. Such procurement plans must be published on the websites of the procuring entity and KP-PPRA within two weeks of the approval of authorized statement of expenditure (annual expenditure statement). In a nutshell, Annual Procurement Plan provides practical guidance to Potential Suppliers, Contractors and Consultants with useful information about the agency and the environment in which it conducts procurement, early information about the intended procurements in addition to facilitation to the entity to plan and execute good procurement.

To further facilitate the procurement committees, Internal Audit Cell has been tasked to prepare a comprehensive Guide which expressly covers all the steps involved in the procurement of Goods, Works and Services as notified by KP-PPRA in the form of Rules, SOPs, SBDs or amendments issued from time to time. There are certain grey areas in the existing procurement regime especially with reference to contract management and post procurement inventory policies and procedures which this Guide has tried to clarify in the light of procurement rationale, General Financial Rules and accounting policies and procedure manual (APPM-PIFRA). Other than that, business processes of Procurement are documented for quick reference which outlines each step with Risk-Control matrices and provide maximum possible checklist while undergoing procurement to avoid frequently occurring errors.

All those templates which are not available on the KP-PPRA website (Solicitation Bid Documents) are included in the Guide to assist officials with the preparation of Annual Procurement Plans, Pre-Post Procurement execution and for Inventory Control.

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Acronyms

AO	Accounts Officer
AI	Administrative Instructions
B&AO	Budget & Accounts Officer
BAFO	Best and Final Offer
BOQ	Bill of Quantities
CE	Chief Engineer
DAGP	Department of Auditor General of Pakistan
DG	Director General
DoA	Delegation of Authority
EOI	Expression of Interest
GCC	General Conditions of Contract
GoP	Government of Pakistan
H/Q	Head Quarters
ICB	International Competitive Bidding
IDA	International Development Association
ITB	Invitation to Bid
ITQ	Invitation to Quotation
LOI	Letter of Intent
LTA	Long Term Agreement
MoU	Memorandum of Understanding
NIT	Notice Inviting Tender
NCB	National Competitive Bidding
OAT	Operational Acceptance Testing
PID	Press Information Department
PIFRA	Project for Improve of Financial Reporting and Auditing
PO	Purchase Order
RFI	Request for Information
RFP	Request for Proposal
RFQ	Request for Quotation
PSDP	Public Sector Development Program
SOW	Statement of Work
TOR	Terms of Reference
UNCITRAL	United Nations Commission on International Trade Law

LIST OF APPENDICES:

- Appendix A: Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act 2012
- Appendix B: Khyber Pakhtunkhwa Public Procurement Regulatory Authority (KPRRA) Procurement Rules 2014
- Appendix C: Notifications

1. Introduction and Rationale

1.1. Background

As precedent in the past, problems inherent in traditional procurement processes were incomplete management information, inefficient procedures, unusual delays, high compliance costs for suppliers and departments, simplistic and inferior procurement methodologies, and a profound lack of transparency. To address these issues, Khyber Pakhtunkhwa Public Procurement Act and Rules were framed. Annual Procurement Plan is one of the most significant deliverable which is meant to attract potential vendors' early attention to upcoming procurement opportunities through providing details of entity's intended procurements. Preparing and executing an Annual Procurement Plan in the light of procurement policy and guidelines are part of sound and effective procurement practices where the basic aim is to ensure adherence with the principles of Public Finance Management and to provide department with practical assistance on the application of procurement policy.

Over the period of time, various Audit teams and Inspection committees have pointed out various procedural lapses and shortcomings in procurement with special reference to contract execution and management and the same had been brought into the notice of E&SE management through formal and informal means. Under this backdrop, this Guide is prepared as a reference document explaining the various phases and stages of the preparation, publishing, updating, execution and culmination of Annual Procurement Plans in the light of relevant policies and procedures as notified by the Government from time to time. Conscious effort has been made while drafting this document that it provides comprehensive guidance to the procurement committees during all the essential steps of the public sector procurement.

1.2. Introduction

Procurement planning is a process whereby procurement practitioners sketch out in advance an arrangement which diagram a plan as to what, which, when and how purchases are to be conducted in a given period. This plan considers what is to be procured (Goods, Works or Services), which method of procurement to be used based on regulated thresholds, and when and how the processing steps will be conducted.

Effective Procurement Planning is essential for all procuring entities in the implementation of the purchasing objectives for the following reasons:

1. An effective plan saves time and money
2. An effective plan serves as a conduit to achieving entity's objectives
3. An effective plan ensures compliance with regulatory policies
4. An effective plan provides a framework to guide procurement officers in the achievement of their tasks and duties.

When procurement practitioners outline their procurement activities prior to the beginning of a fiscal year, this process provides an organized means whereby time and money are saved. This happens when timelines are followed in the procurement of contract packages

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and when patience is exercised in the use of the right procedures enshrined by law to ensure transparency and competitiveness. Imagine conducting the process of procurement in a hasty manner disregarding the processing steps required by law and ended up with items that are undesirable, unreliable, nondurable and costly; the results are loss to Government and probably the repurchase of similar items in the not to distance future, thus consuming precious time and resources of the department.

Khyber Pakhtunkhwa Public Procurement Act was passed in 2012 and subsequently Khyber Pakhtunkhwa Public Procurement Rules were framed in the light of Act and promulgated in 2014 to regulate public procuring entities in their execution of the procurement activities. Apart from the establishment of procurement structures at these entities, these procurement committees are required to abide by the procurement law in all its procurement transactions. The preparation of an effective procurement plan is the first step in achieving such mandate. These Annual Procurement plans of procuring entities conceived, reviewed and approved at the beginning of the year serve as blue prints for the measurement of actual procurement executed throughout the fiscal year.

An effective plan provides a framework to guide procurement officers in the achievement of their tasks and duties. When departments use effective procurement plans in the execution of their functions, they are more organized, effective and efficient in effecting positive changes and growth. This growth and change exposes the procurement officers relevance and reliability in the achievement of duties and responsibilities assigned to his office, thus, producing the necessary measures which would provide the basis for achieving the spirit and intent of the procurement law of 2012.

1.3. Purpose

This procurement guide details departmental procurement instructions, procedures and processes and provides further guidance for carrying out procurement activities in the E&SE Department and its attached departments in an effective, efficient and transparent manner. Departmental procurement officials and other personnel involved in procurement processes are expected to ensure compliance to the provisions mentioned in this Guide in its true letter and spirit.

Procurement Basics: Depending on the complexity of a requirement, considerable input in terms of lead time and expertise is required by contracting authorities to procure public contracts which require a structured process that covers:

1. Defining what is to be purchased,
2. The most promising sources for deliverables identified,
3. The appropriate and correct procurement procedure has to be determined,
4. The clauses and terms of the tender documents and the contract have to be drafted,
5. Competitive bidding has to be arranged,
6. The evaluation of bids has to be organized,
7. The recommendation for the award of contract taking into account all the advantages and the risks has to be prepared, and
8. All details need to be documented in an audit-proof way.

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1.4. Applicability

The instructions, procedures and processes detailed in this Procurement Guide are in complete agreement with the Public Procurement Rules notified by the Government of Khyber Pakhtunkhwa and; therefore, apply to any procurement activity undertaken by the E&SE Department or its attached departments. In case of confusion regarding explanation of any provision of this Guide, the case may be referred to Secretary, E&SED for advice who after consultation with the relevant quarters may provide future line of action and same may be incorporated in this Guide in the form of annexure for general adherence and compliance.

1.5. Structure of Procurement Guide

This guide has overall three sections:

1. First section covers introduction, organization of procurement, Procurement strategy and sourcing;
2. Second section covers all the key steps of the procurement process starting from procurement planning to contract management; and
3. Third section covers post procurement processes like physical stock-taking, maintenance of record, accounting of stores and other inventory control policies & procedures.

1.6. Legislative and Regulatory Framework

The Elementary & Secondary Education Department legislative framework is comprised of the following legislative instruments, by order of priority:

1. Khyber Pakhtunkhwa Public Procurement Act 2012;
2. Khyber Pakhtunkhwa Public Procurement Rules 2014;
3. Amendments made in the Public Procurement Rules by Authority;
4. General Financial Rules (GFR);
5. Commitments made in the PC-1, Contracts and MoUs;
6. Various policies and procedures notified for procurement by the department; and
7. Procurement Guide.

In the case of inconsistencies between any instruments of the legislative and regulatory framework, the instrument with priority in the hierarchy above shall prevail. For all practical purposes, interpretation authority for any procurement matters contained in this guide is vested with the Principal Accounting Officer. All such interpretations issued in the form of notification shall be attached to the Guide as Annexure for future reference.

1.7. Procurement Principles

Basic principle to be followed in the procurement is that all purchases and procurements shall be reasonable and necessary (i.e., no unnecessary item shall be purchased). Other principles to be followed in matters relating to procurement are:

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1. **Economy, Efficiency and Effectiveness (3Es):** Only items that are essentially required for the efficient and effective operations of department will be purchased in most economic manner;
2. **Public Access and Transparency:** The principle will be observed in accordance with the guidelines given in the Public Procurement Rules, 2014, in case of government funds;
3. **Accountability:** All procedures and practices will provide for adequate measures for demonstrating desired level of accountability; and
4. **Procurement Governance:** All procedures and processes have to be appropriately applied to ensure good governance in procurement matters.

By applying these principles in the procurement process, department intends to ensure that its procurement activities are implemented in a purposeful and effective manner, including its commitment to promote sustainable development and conducive learning environment through avoiding wastage of resources, producing best possible solutions and addressing the needs of ultimate beneficiary i.e. Students.

1.8. Best Value for Money

It can be defined as trade-off between price and performance that provides the greatest overall benefit under the specified selection criteria. The purpose of public procurement is to obtain the best value for money and

What is meant by “Value for Money”? To deliver right Goods, Services and/or Works, of the right quality, in the right quantity, at the right time, at the right price and provided at the right place.

to do this it is important to consider, among other factors, the optimum combination of life cycle costing (i.e. acquisition cost, cost of maintenance and running costs, disposal cost) of a purchase and its fitness for purpose (i.e. quality and ability to meet the contracting authority’s requirements). This definition enables the compilation of a procurement specification that includes social, economic and environmental policy objectives within the procurement process. Furthermore, reduced energy and resource consumption throughout the life cycle results in greater efficiencies and long-term cost savings.

In order to obtain best value for money, procurement officials must:

1. Maximize competition;
2. Keep the procurement process simple e.g., good planning and clear specifications and minimize financial risk, e.g. thorough background checks on capacity (technical and financial) of bidders;
3. Carefully establish the evaluation criteria (in order to select the offer with the highest expectation to meet partners’ needs in accordance with the evaluation parameters set forth in the tender documents);
4. Consider all costs, e.g. life cycle costs, transportation costs, installation costs, maintenance costs, sustainable procurement considerations;
5. Ensure, whenever possible, that social and environmental benefits are optimized and adverse impacts are minimized;

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6. Ensure impartial and comprehensive evaluation of offers in a timely manner; and
7. Ensure selection of the contractor whose offer has the highest degree of realism and whose performance is expected to best meet the specified requirements at the lowest overall expense to the organization.

TEN GUIDING PRINCIPLES TO ACHIEVE BEST VALUE FOR MONEY	
Competition	Competition among suppliers should be encouraged in the most efficient and effective way
Efficiency and Effectiveness	Efficiency and effectiveness should be sought in the procurement process to secure value for money for the procurement entity
Fairness/Non-discriminatory	Act fairly during the whole procurement lifecycle without imposing unnecessary burdens or constraints on suppliers or potential suppliers. Avoid any favorably treatment to specific supplier or potential supplier
Objectivity/Integrity/Honesty	Declare any conflict of interest that affects or appears to affect their judgment; Reject gifts, hospitality and benefits of any kind from supplier or a potential supplier, which might be reasonably seen to compromise their objectivity or integrity.
Transparency	Ensure equal conditions and accessibility to all economic operators, by informing them in an open and transparent way.
Accountability	Be accountable for the responsibilities assigned to them, as well as for the decisions made by them, keep the appropriate records.
Confidentiality /Accuracy of Information	Respect the confidentiality of information acquired in the course of performing their duties and not disclose any such information without having proper and legitimate authority to do so.
Compliance to the Laws, Rules, Regulations and Commitments	Conform to the General Financial Rules, Procurement Act, Procurement Rules as well as to other requirements and commitments regarding public procurement. Serve the public interest and act with responsiveness in using the “taxpayers” money
Professionalism	Work to a high standard of professionalism by complying with the legislation in force and applying the best practices.
Environmental and social protection	Exploit the opportunities to incorporate environmental and social considerations and issues in each stage of the procurement life cycle.

1.9. Proscribed practices by Suppliers & Vendors

This Guide defines proscribed practices as follows:

1. **Corrupt practice:** is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
2. **Fraudulent practice:** is 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;
3. **Coercive practice:** is an act or omission that impairs or harms, or threatens to impair or harm, directly or indirectly, any party or the property of the party to improperly influence the actions of a party;

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4. ***Collusive practice***: is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
5. ***Unethical practice***: Conduct or behavior that is contrary to the conflict of interest, gifts and hospitality, postemployment provisions or other published requirements of doing business with E&SED;
6. ***Obstruction***: Acts or omissions by a vendor that prevent or hinder department from investigating instances of possible Proscribed Practices.

1.10. Supplier's conflict of Interest

E&SED requires that a supplier participating in a procurement process shall not have a conflict of interest, so as to avoid any distortion of competition and to ensure fairness of the process. A supplier shall be considered to have a conflict of interest in a procurement process if:

1. A supplier (including its personnel) has a close business or family relationship with an Education staff who: (i) are directly or indirectly involved in the preparation of the bidding documents or specifications of the contract, and/or the bid evaluation process of such contract; or (ii) would be involved in the implementation or supervision of such contract;
2. A supplier is associated, or has been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the department to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods, services or works required in the present procurement process; and
3. Does not comply with any other conflict of interest situation relevant to the specific procurement process as specified in the solicitation document.

2. Organization of Procurement

2.1. Definition of Procurement

Procurement is a purchasing process that controls quantity, quality, sourcing and timing to ensure the best possible total cost of proprietorship. It may include acquisition of property, plant and/or equipment, goods, works or services through purchase, hire, lease, rental or public-private partnership. Works for being peculiar in nature differs from routine procurement as it refers to all activities and services relating to the design, supervision, construction, reconstruction, demolition, repair or renovation of infrastructure.

Another concept of public procurement is “Sustainable procurement” which can be defined as process that integrate requirements, specifications and criteria that are compatible with broader environmental protection and at the same time promote social progress through economic development by seeking resource efficiency, improved quality of products and services and optimization of cost.

2.2. Procurement Cycle

Any standard procurement process usually consists of ten processes which can be categorized in three groups. This may include:

1. Pre-purchasing;
2. Purchasing; and
3. Post purchasing.

This arrangement can be illustrated through following table:

GROUPS	PROCESSES
Pre-Purchasing	1. Strategy & Planning
	2. Requirements assessment
	3. Identification of Sourcing
Purchasing	4. Solicitation
	5. Management of Submissions
	6. Evaluation
Post-Purchasing	7. Review & Awards
	8. Contract finalization & Issuance
	9. Logistics
	10. Contract Management

2.3. Roles and Responsibilities during Procurement

2.3.1. Principal Accounting Officer

1. Supervision of process of determination of needs and demands of goods, services and work for the department during budget preparation for Next Financial Year (NFY) for appropriate allocation of funds;
2. Articulate strategy, policy positions and innovative solutions at Secretariat level for Centralized procurement carried out from Educational Grant of Provincial Consolidated Funds;
3. Enable the department's procurement in a transparent, accountable and efficient manner in order to execute annual procurement plan under the framework of Khyber Pakhtunkhwa Public Procurement Rules 2014;
4. Establish and maintain instructions, procedures, processes, control mechanisms, and supporting guidance on procurement activities;
5. Ensure that the above instructions, processes and tools are being complied with by the attached departments and other subordinate field offices responsible for implementation of procurement plan, achieve the intended outcomes, and if not, assess why and make any required changes;
6. Enable the operationalization and managerial oversight of departmental procurement activities through appropriate systems and reports;
7. Strengthen the knowledge, skills and career development of procurement committees, through capacity building workshops, international/national trainings and handholding during the implementation of Annual Procurement Plan;
8. Establish grievance mechanisms to address complaints from or against vendors;
9. Establish the requirements for vendor registration and for background checks/due diligence; and
10. Notify Procurement Committees with clear mention of their "Terms of Reference" and delegation of roles & responsibilities of sub-ordinate offices involved in the procurement.

Mission of Public

Procurement: To ensure and enable procuring entity meets its policy and business objectives in the delivery of better public services. The public procurement process spans the whole project life cycle from initial conception and definition of the needs of the public service through to the end of the useful life of an asset or the end of a contract.

2.3.2. Drawing and Disbursing Officer

Drawing and Disbursing Officers is the person that initiates a purchase requisition, i.e. a request for goods, works or services. They have primary responsibility for managing entity resources and achieving Procurement outcomes. In public sector, all expenditures must be made against a valid budgetary provision and eligible financial sanction.

Responsibilities of a DDO in a procurement process (some of these can be delegated to other entity's staff as per delegation of financial powers):

1. Preparing the procurement plan of the entity, ensuring that proposed expenditures are in accordance with the purpose of the budgetary provisions;
2. Drafting the requirement's definitions and other relevant details;
3. Approving requisitions in the entity for procurements and initiating tendering process in accordance to instructions received from competent authority (Secretary/Director for Account-I/DC in Districts for Account-IV);
4. Supervising procurement process and evaluate submissions received, if also appointed to the evaluation team;
5. Accepting goods, services or works delivered by suppliers, and process the payment receipts after fulfilling all codal formalities; and
6. Lead contract management duties including supplier performance evaluation.

2.3.3. Procurement Committee

A procurement Committee is the departmental body responsible for carrying out a procurement process in the light of ToRs notified by the department. For centralized procurement from block allocations, the department may nominate *Technical* procurement committees at Provincial level and *Financial* procurement committees at District level. Composition of Procurement Committees will be discussed in Evaluation chapter.

General responsibilities of a procurement committee other than mentioned in TORs of notification in a procurement process are as follows:

1. Defining procurement strategies in collaboration with the head of respective entity, upon review of the procurement plan;
2. Reviewing the requirements definition and ensuring these are appropriate from a procurement perspective;
3. Leading the sourcing process and market research, if applicable;
4. Preparing solicitation documents and managing the solicitation process;
5. Carrying out and facilitating the evaluation of submissions;
6. Preparing the recommendation for award of contract;

Objectives of Public Procurement:

Ensure an open, transparent and compliant process;

Achieve continuous improvement on all categories of expenditure through a transparent and fair procurement process;

Achieve Value for Money in all procurement activities;

Promote equality of opportunity for all businesses and in particular local industries and businesses;

Work in partnership with the private sector and other organizations to achieve value for money, quality and effective service delivery;

Promote innovation;

Encourage environmental and social sustainability through effective procurement policies and practices

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7. Filing and record keeping of all the relevant documents of the Procurement;
8. Preparing contracts and proposing appropriate purchase order for formal approval of the head of the entity; and
9. Performing contract management duties, in support of the entity head, if applicable.

2.3.4. Appointment of Head of procurement committee:

The procurement process can often be complex with a number of different roles and responsibilities involved in the procurement chain. For every procurement exercise, a Head of Procurement Committee has to be appointed, who is responsible for the implementation of the procurement exercise. He carries the overall responsibility for the procurement process which includes completing the procurement planning as well as the implementation of the procurement exercise in relation to:

- Time;
- Budget; and
- Quality requirements.

Head of Procuring Entity should ensure that the head of the procurement committee appointed is able to undertake the following roles and responsibilities.

Category	Tasks of Head of Procurement Committee
GENERAL	Overall responsibility and accountability to deliver a success procurement process
	Planning, organizing, guiding, controlling and coordinating the team members
	Accountability for cost, schedule, quality and scope of the procurement
	Information flow and communication between procurement team and other stakeholders
SPECIFIC	Compliance with all relevant rules and regulations and best practices
	Composition, coordination and leadership of procurement team (job descriptions, supervision of results, quality control, etc.)
	Decision on any additional human resources needed, e.g. consultant contracts for feasibility studies, technical specifications, etc.
	Responsible for checking resource allocation, and related risks with the relevant wings of the contracting authority and Finance Department
	Elaboration of a work plan and a time plan for the procurement implementation in the light of wider objectives of the Procurement
	Elaboration of a communication strategy (internal) and advertisement/publication needs
	Market research and enquiries for justifications for reasonableness of prices
	Carrying overall responsibility for drafting of technical specifications and terms of references
	Controlling change to the procurement scope, cost, or schedule

2.4. Procurement forecasting

Forecasting is the first, and arguably the most important step in the procurement process because it provides the opportunity to link the procurement plan to the overall procurement

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strategy and objectives of the ministry/project and the provincial budget. To be able to forecast the volume of demands for the coming inventory year, the annual procurement plan shall consider the aggregate volume of requirements per class of goods, the present and expected stock inventories, historical figures of use and consumption, and a buffer stock volume equivalent to ten percent (10%) of the previous inventory year's total use and consumption. When forecasting, consideration should be given to the following:

1. Defining your procurement requirements;
2. Assessing the capacity for implementation;
3. Determining the time frame of project implementation;
4. Presenting realistic three-year budget forecast (external/counterpart funds) for project implementation;
5. Seeking approval at the departmental levels and assurance of availability of funds from Finance department of Provincial Government;
6. Identifying all items that have to be procured; and
7. Creating sound financial justification for procurement.

At a minimum, forecasting should be an annual event, and ideally should cover a three-year period. Ideally, forecast of these programs may be reviewed after every six months. One advantage is that a year's forecast can be adjusted mid-year, based on actual—not projected—data. This increases the accuracy of the projections on which procurement and decisions are based. Disadvantages are that more frequent forecasts require regular, accurate data analysis that may burden the logistics management team; and changes to the annual procurement plan may be costly and administratively difficult as well.

3. Procurement Strategy, Planning and Requirement

3.1. Procurement Strategy

With due regards to requirement, developing a procurement strategy is essential for efficiently acquiring the goods, services and works within the prescribed timelines. Developing a strategic approach to procurement is a key to success for acquisition of goods, services and works and necessary for timely implementation of procurement plan. Main factors effecting meaningful implementation of procurement strategy requires understanding nature of the requirements, scanning of capacity of vendors/suppliers/.contractors, complexity of procurement, risk in the process and timely availability of financial and HR resources. This all requires professional experience to break all the procurement activities in various processes and allotting priority and times for each of them in the light of their significance. In a nutshell, Procurement strategy is the process of scheduling the procurement activities of the business unit and department as per approved and budgeted procurement plans.

3.2. Procurement Planning

Procurement planning is the process through which it is decided that what to buy, when to buy and from what source to buy. During the process, timelines are set for each of procurement activity through the most suitable solicitation method, contract type and form of competition. The primary concept of procurement is that advanced planning, scheduling and bulk purchasing result in cost savings, efficient business operation, and increased value for money. The public sector is expected to use procurement planning as an opportunity to evaluate/review the entire procurement process so that sound judgments and good decision making are made to ensure the success of overall implementation of procurement of goods, works and services.

Procurement Planning is important because:

1. Realistic determination of requirements, positioned for strong offers, wider competition, leading to cost effective supplies and ultimately consensual contract management;
2. It allows fulfilling of expectations of requisitioning entities on the shorter notice and more appropriate procurement method;
3. It is an opportunity for all stakeholders involved in the processes to meet in order to discuss particular procurement requirements. These stakeholders could be the requesting entity, end users, procurement department, technical experts, and even vendors to give relevant inputs on specific requirements;
4. It permits the creation of a procurement strategy for procuring each requirement that will be included in the procurement plan. Such strategy includes a market survey and determining the applicable procurement method given the requirement and the circumstances;
5. Planners can estimate the time required to complete the procurement process and award contract for each requirement. This is valuable information as it serves to

- confirm if the requirement can be fulfilled within the period expected, or required, by the requesting entity;
6. The need for technical expertise to develop technical specifications and/or scope of work for certain requirements can be assessed, especially where in-house technical capacity is not available or is non-existent;
 7. Planners can assess feasibility of combining or dividing procurement requirements into different contract packages;
 8. It lists all requirements expected to be procured over a period of time;
 9. It allows for the consolidation of similar requirements under one contract or the division of a requirement into several contract packages for economies of scale;
 10. It allows for the monitoring of the procuring process to determine how actual performance compares with planned activities, and thus to alert the pertinent departments and adjust the procurement plan accordingly; and
 11. It enhances the transparency and predictability of the procurement process.

In public sector planning, KP-Public Procurement Act 2012, and KP-Public Procurement Rules 2014 for Goods, Services and Works and related Standard Bid Solicitation Documents provide comprehensive procurement regime for the line departments. The preparation of Annual Procurement Plan (APP) is the first stage to organize the intended procurement along appropriate timelines to meet the requirements of the procuring entity.

3.3. Legal Obligation of preparation of Annual Procurement Plan

As per Constitution of Pakistan, funds are provided to the spending entities for public procurement in the form of Annual Budget Statement, Schedule of Authorized Expenditure and Supplementary or Excess Budget Statement. Allocation of funds for public procurement in autonomous and semi-autonomous bodies, public sector corporations and companies are also made through annual budgets, in the prescribed manner. Non-utilization/Lapse of funds depicts inefficiency of the spending entity; therefore, it is imperative to timely put in place a procurement plan to properly utilize the allocated funds for the specific purposes and avoid its lapsing.

Secondly, the procurement planning is governed by Section 22 of Khyber Pakhtunkhwa Public Procurement Act 2012, which is produced below:

Each procuring entity shall plan its procurements with due consideration to transparency, economy, efficiency and timelines, and shall ensure equal opportunities to all prospective bidders;

All procurement requirements must be documented and approved by the procuring entity prior to commencement of procurement proceedings; and

In specified circumstances, a procuring entity may proceed with the procurement proceedings except for award of contract when the availability of funding in the full amount over the required period remains to be confirmed/approved by the competent authority: (Provided that the project has been approved or has received anticipatory approval from the competent authority/forum or is otherwise within the competence of the procuring entity and budget provision exists).

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The significance of provisions of Section 22 above are emphasized by its reproduction in Rule 30 and 31 of the KP-Public Procurement Rules 2014 with addition to putting limitation on splitting or regrouping of proposed procurement. The provisions of the two rules are produced below:

Rule 30: 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 in accordance with section 22 of the Act.

Rule 31: Limitation on splitting or regrouping of proposed procurement.--A procuring entity shall announce in an appropriate manner, all proposed annual procurements and shall proceed accordingly without any splitting or regrouping of the procurements so planned.

3.4. Preparation of Annual Procurement Plan (APP)

The procuring entity should prepare the Annual Procurement Plan for all Goods, Services and Works to meet the requirements of its end-users or the other end-users units, for which it is acting as procuring entity, keeping in view the budget allocation and budget estimates for the purpose. The preparation of the annual procurement plan should normally be kept in sync with annual budget cycle and finalize within two weeks of the start of the financial year. While adhering to the provisions of Rule 31 of the procurement rules, the annual procurement plan should be reviewed on quarterly basis, and revised if needed, to account for unforeseen factors, including:

1. Shortfall in release of allocated or anticipated funds;
2. Availability of additional or supplementary funds;
3. Changes in the work-plan;
4. Initiation of ADP schemes;
5. Emergency needs;
6. Failure or cancellation of bidding process;
7. Delays in the award of contract or executions;
8. Failure and termination of contracts;
9. Undertaking of rebidding; and
10. Drastic changes in the market conditions.

The Annual Procurement Plan and its revised versions, if any, should be approved by the Head of procuring entity, and posted on the websites of the procuring entity and the KP-PPRA, where the same shall remain posted till completion of its execution. The Annual Procurement Plan should be properly monitored for implementation by the procuring entity. It is good practice for the line departments to establish procedures for preparing, updating and posting annual procurement plans. These procedures will reflect the nature of the procuring entity and its procurement needs, and could include processes for:

1. Providing input to annual procurement plan;
2. Drafting the annual procurement plan;
3. Approval of the annual procurement plans;
4. Posting of the annual procurement plan; and

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5. Reviewing and updating the annual procurement plan.

It is good practice to maintain good records of the process used to collect the information for the annual procurement plan. These records can assist procuring entity with:

1. Obtaining clarification or additional information;
2. Updating the annual procurement plan; and
3. Preparation of annual procurement plans in future years.

3.5. Content of Annual Procurement Plan

The Annual Procurement Plan (APP) should reflect the essential information about the procurement to be undertaken by the procuring entity during the financial year. Such information includes brief description of the items or objects to be procured in the form of suitable packages, estimated cost of packages, methods of procurement, including indication of requirement of enlistment, pre-qualification or post qualification, as the case may be, and timelines and critical time points of the procurement. A standard format for the Annual Procurement plan is appended below:

(Standard AAP format)

Standard Annual Procurement Plan for the period* _____
Name of Procuring Entity _____

Serial No	Brief description of procurement Item/object/package	Estimated cost	Procurement method**	Date of initiation of procurement	Date of Award of Contract ***	Date of completion of Contract***	Remarks

*The APP may be prepared on the assumption that total allocated budget will be released

**Procurement method means open competitive bidding/petty purchase/request for quotation/Direct contracting including indication of requirement of enlistment, pre-qualification or post-qualification, as the case may be

***Dates mentioned are tentative

Prepared by
(Sd.)
Procurement Officer
(Name and designation)

Approved by
(Sd.)
Head of Procuring Entity
(Name and designation)

3.5.1. Description of Items/objects/packages to be procured

The template of Annual Procurement Plan reflects broader features of the procurement process for the items and objects, including Goods, Services and Works, to be procured in the financial year. The list of such items or objects is prepared with the help of information furnished from the end users or end-user sections or requirement of related work plans which are duly harmonized with the budgetary allocations.

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The following sources may be used to collect the information for preparation of a list of procurement items or objects for compilation of Annual Procurement Plan.

1. Record of past procurement and its utilization;
2. Budget estimates provided for future intended procurements;
3. Budget reserved for expected calamities or emergencies;
4. Specific demands or requisitions of end user units;
5. Market survey reports;
6. Changes in technologies or specifications of procurement items or objects;
7. Requirement of development projects (ongoing & new);
8. Information on inflation and price trend; and
9. Information on budget trends.

The list of procurement items or objects and quantities required may be adjusted against stock inventory position, if any, to determine requirement for fresh procurement. Keeping in view the peculiar nature of these procurements, they may be regrouped in suitable packages, if possible, to attain economies of scale instead of making separate contracts with multiple vendors. However, following factors must be kept in mind while making such arrangements of package contracts.

1. Object heads remain the same for same nature of procurement and budget allocation in these particular head of accounts;
2. The items, Goods, Works and Services, clubbed together must be falling under each of broader category and incidental cost as well as allied services may also be included in the package, if cost remains under the budgetary allocation. Some of the other considerations for packaging are as follows:
 - a. Estimated cost of procurement items and objects;
 - b. Practicability of segmentation or clustering of procurement items or objects by territory, time, components, functions, cost etc;
 - c. Initiation and completion dates of the procurement;
 - d. Urgency of procurement;
 - e. Number of prospective suppliers, contractors and consultants for the procurement items or objects in the market;
 - f. Storage capacity of procurement items or objects and cost of storage; and
 - g. Specific provisions of agreements of foreign aided projects regarding procurement.
3. Some of the examples of the description of items to be mentioned in the annual procurement plan are as follows; stationery, books and maps, office equipment (Computer, printer, photocopier etc), furniture, crockery, sports goods, survey and engineering tools, laboratory equipment, vehicles, POL, plants and machinery, raw materials, spare parts, class room consumables, uniform items, weapon and ammunitions, construction, renovations, repairs & maintenance (roads, building, canals, dams, tunnels, embankments, protection walls, water supply and sanitation, drainage and pavements, parks, monuments, power houses, transmission lines etc), tendering of various services (legal, banking, security, management, accountancy,

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logistics etc), surveys, preparation of plans, programs, projects, technical documents, oversight functions etc

4. Save as otherwise provided in the procurement Act or the procurement rules, or constrained by other factors, financial values of the packages should be kept above the minimum threshold of open competitive bidding; and
5. Procurement through rate agreement, running contract or call-off contract, if permissible and justified otherwise, should be assessed for tentative estimated cost and planned in conformity with guidelines provided by the KP-PPR Authority.

3.5.2. Estimated cost of procurement items or objects

The estimated cost of the procurement items or objects should be determined by taking into account the following information:

1. Prevailing market rates of the Goods;
2. Companies price bulletin;
3. Price information on the mass media;
4. Information gathered from market survey;
5. Information obtained from responses to Request for Information;
6. Average prices of similar procurement in last year and changes in the prices during last three years;
7. Consolidated schedule of rates or Schedule of market rates system;
8. Cost estimates in the program or project documents;
9. Expert estimates of cost;
10. Engineer estimates of work;
11. Minimum wages; and
12. Market based packages for the consultants and professionals.

While making bulk procurements, vendors should be encouraged to offer discounts in the bid solicitation documents and such discounts may be adjusted accordingly in the estimated costs. These estimated costs will also be prone to adjustment in case of change of taxation policies so that such changes can be incorporated in the initial costing.

3.5.3. Methods of procurement

The KP-PPRA Act 2012 and KP-PPRA Rules 2014 have explicit details with regards to eligible methods of procurement varying from each other in one way or the other depending upon the nature of procurement involved. Procuring entity have to be very careful while quoting method of procurement in the annual procurement plan for each of intended procurement as they all should be in conformity with above mentioned Act, rules and various instructions/guidelines issued by the KP-PPR Authority.

3.5.4. Timelines and critical time points of procurement

The procurement items or objects are needed for the execution of various plans, programs, projects and service delivery, normally within defined timelines. Some of the procurement items or objects may be utilized more or less uniformly throughout the year while others may be needed on certain fixed time or critical stage. In all cases, however, there is starting point when requisite quantities of the procurement items or objects should be available to

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the procuring entity or end-user units. To meet this requirement, the procurement process should be planned and executed in a timely manner.

The timelines and critical time points of availability and utilization of the procurement items or objects should be determined by the procuring entity as end-user or other relevant end-user units in view of their work plans and programs. Based on such timelines and critical time points, the dates of initiation of procurement process, award of contract and completion of contract should be set up by the procuring entity. Keeping in view the provisions of the procurement Act and procurement Rules while finalizing timeliness, it is necessary to include mandatory and practical time requirements for the advertisement, enlistment, pre-qualification, shortlisting preparation of bidding documents, bid solicitation process, response time, bid evaluation, post bid negotiations, time lag between announcement of evaluation report and award of contract and entry into force of contract.

The procurement entity should schedule the initiation date of the procurement process at the earliest possible, and for that matter it can even avail the leverage to schedule it prior to the date of release of funds for the purpose. The date of the award of the contract should be aligned with the availability of requisite funds. The completion date of procurement and contract should be determined by giving due consideration to the lead time involved in the case. The lead time would comprise the time required for administrative processing of the Goods, construction activities, service delivery and delivery of finished procured items and objects.

3.6. Procurement planning in E&SE Department

Procurement planning in E&SE Department is done at four levels keeping in view the financial delegation of powers and working hierarchy of the department; which are as follows:

1. Secretariat level (under own DDO code)
2. Provincial attached departments (E&SE Directorate, DCTE, PITE under respective DDO codes)
3. District Education Offices (DEOs procurement from Grant 39 and A/C-IV)
4. Umbrella Schemes (procurements from ADP schemes and block allocations)

From current budget (non-salary) component, all DDOs are generally assigned budget under their unique DDO codes which has various object codes; however, procurements are done usually under following object codes depending upon different nature of requirements and allocations of funds.

Object Code	Description	Items involved
A03	Operating expenses	A03901 – Stationery A03902. – Printing and publication A03903 – Conference/seminars/workshops/symposia A03904. – Hire of Vehicles A03970 – Others

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A09	Physical Assets	A09203 – IT Equipment A09501 – Transport A09601 – Plant & Machinery A09701 – Furniture & Fixture
A13	Repairs and maintenance	A13001 – Transport A13101 – Machinery & Equipment A13201 – Furniture & Fixture

For development budget component, procurements are done in the line of PC-1 prepared for each of ADP schemes. It may include all kind of procurements like:

1. Procurement of Goods (large procurement);
2. Procurement of Goods (small procurement);
3. Procurement of Works (Large contract);
4. Procurement of Works (small contract); and
5. Procurement of Services.

3.7. Procurement requirements

Requirement in general is a term used for the codification of item requisitioned so that it can be stated in the proper product specification. As process of procurement requirement is embedded with the Procurement planning; therefore, it is pre-determined that all such requisitions shall be evaluated for identification of issues that look inappropriate from procurement perspective like branding without justification, over-specification, unrealistic delivery dates and restrictive competition. However, to build consensus, requisitioning officer and management may sit together to finalize the details of requirement by changing the quality/quantity of procured goods and services, rethinking the solution in favor of more sustainable alternatives or redesigning certain environmental and social aspects. The general purpose of this exercise is to identify the precise needs of the requisitioning entity and the best solution to meet those needs. All the determining factors in the requirement must be added in the evaluation criteria of solicitation documents in order to facilitate the procurement process.

Broad categories to be considered:

Acquisition costs Incurred before the solution is ready for implementation

Operating costs Incurred as a result of actually using it or keeping it available

Maintenance costs

Disposal costs Incurred on disposal or when dealing with site contamination or other harmful effects

3.7.1. Characteristics of Well-defined Requirement

For well-defined requirement, analysis through market research of the goods, services or works is inevitable which have to be procured especially in the context of purpose, performance, characteristics, and objectives/outputs of the product.

All requirements definitions must specify the exact needs without over-specification. Over-specification may increase prices and/or decrease the number of offers as it leads to offers for more advanced products than those needed. The converse is true of under-specification

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and therefore it is essential for the cost-effective use of funds that the requirements define the exact needs.

Environmental and social responsibility aspects (e.g. environment friendly production methods) should be considered in the evaluation and they must be included in the requirements definition in solicitation document.

3.7.2. Branding of Product

Requirements shall be generic in nature and must not be restricted with branding or other conditions unless for standardization purposes. If brand names are used to define functional, performance and/or conformance requirements they must only be used to define the required product standard. Further, brand names must never be used without the mention of minimum requirements considered essential for the product. Finally, the specification must clearly invite offers of equivalent products, i.e. products meeting similar functional, performance and/or technical standards. In the event that the requirement specifies a particular brand for the purpose of standardization, the rationale for this requirement shall be briefly stated in the solicitation document in order to avoid negative perception in the vendor community of any bias on the part of procuring entity.

3.7.3. Key Performance Indicators

Where possible, requirements should include key performance indicators (KPIs) to be monitored during contract management stage. KPIs are essential tools to express and measure performance against agreed targets and these are particularly recommended for complex contracts of goods and services. These have to be identified at detailing stage of requirements, to be incorporated in the solicitation documents, then into the contract, and hence enable monitoring the KPIs at contract management stage.

KPIs for goods and services include:

1. Delivery/performance
 - a. Delivery of goods/services on time;
 - b. Delivery of goods/services in full.
2. Quality
 - c. Quality of goods/services delivered (in accordance with specifications/TOR);
 - d. Handling of complaints;
 - e. Technical competence;
 - f. Adherence to warranty provisions.
3. Communication
 - g. Responsiveness of supplier (requests, complaints etc.);
 - h. Appropriate handling and timely submission of documents (reports, invoices, completion reports etc.).
4. Sustainability
 - i. Innovation
 - j. Cost saving initiative
 - k. Environmental considerations
 - l. After sales services

- m. Compatibility with the technology and existing infrastructure

3.7.4. Best practices in setting up KPIs

1. Determine KPIs together with the requesting unit(s) during requirements definition stage;
2. Ensure KPIs are SMART (Specific, Measurable, Achievable, Relevant, Time bound);
3. When issuing the contract, ensure inclusion of KPI targets as an Annex to the contract.

Requirements can be specified during procurement in following three documents.

1. Technical specifications
2. Terms of References
3. Statement of Works

3.8. Technical Specifications

The term “technical specifications” mainly used for procurement of Goods but in some cases it can also be used for straightforward and quantifiable services. Specifications are the description of the technical requirements for a material or product. They give a description of what the organization wants to buy and what the supplier is required to provide. Specifications can be simple or complex depending on the need and they forms part of the invitation to bid, request for proposal, or request for quotation.

The specification of the goods and services to be procured should be defined in such a way as will be intelligible to all potential suppliers/contractors and government officials and the personnel involved in the administration of the contract. They shall clearly describe the items of goods or services sought to be procured, either on the basis of physical characteristics or attributes, functionality, performance, and environmental interface. In determining the technical specifications, the end-user unit or the procurement committee must consider the objectives of the project or the procurement at hand, and identify the standards that should be met by the goods or services. Any, or a combination, of the following types of specifications may be used:

Functional Specifications, where the specifications contain a description of the functionalities in which the goods are expected to be utilized.

Performance Specifications, where the specifications contain performance characteristics desired for the item, and does not normally deal with the specific configuration, the detailed design and exact measurements. They refer to the manner or method by which the goods or services are expected to carry out the functions expected of them.

Design Specifications, where the specifications contain precise measurements, tolerances, materials, in-process and finished product tests, quality control and inspection requirements and other detailed information.

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Environmental Interface Specifications, where the specifications refer to the environment in which the functions required of the goods or services sought to be procured are performed at the desired level.

Comparative Descriptions (or Specification by Standards or Bench-marks), where the specifications identify the item by another product, brand or exclusive standard which may already be known and is of desirable features and characteristics,... with the mandatory use of the “or its equivalent,” statement to allow competition.

3.8. Terms of References (TORs)

A TOR is a description of the scope of work for services generally indicating the work to be performed, the level of quality and effort, the timeline and the deliverables. TOR are mostly used to define the performance requirements for expert and advisory services which are not easily quantified, e.g. where a solution to a requirement is offered, but may also be used to define a complex requirement for goods or combination of goods and services.

The TOR is often the supplier’s first and main introduction to the assignment. A clear TOR without any contradictions will force the supplier to prepare a clear and detailed proposal. This should lead to successfully implemented projects and limit the risk of dispute or claims. The TOR should plainly state the desired level of sustainability that the procurement entity wishes to implement.

The TOR typically includes the following information:

1. Background for requesting the service;
2. Objective of the service and overall impact;
3. Expected and clearly defined output from the service;
4. Social and environmental requirements;
5. Activities required to reach this output;
6. Inputs required to perform activities;
7. Deliverables;
8. Timelines.

3.9. Statement of Work (SOW)

A Statement of Work (SOW) is a document within a contract that describes the work requirements for a specific procurement along with its performance and design expectations. The main purpose of the SOW is to define the liabilities, responsibilities and work agreements between two parties, usually department and service providers. SOWs should be written in precise language that is relevant to the field of business. This prevents misinterpretations of terms and requirements. Although detailed, a SOW is a general description of work. Whenever further specifications of a particular task are needed, the SOW makes reference to supplementary documentation. A well-written SOW will define the scope and Key Performance Indicators (KPIs) for the agreement. These KPIs can then be used as a baseline to determine whether the service provider has met conditions of the SOW. SOW formats can vary from one industry to another, but the same key guidelines should be followed in any case for the SOW to be effective. Only after the acceptance and approval of

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the feasibility study shall detailed engineering investigations are to be conducted. A schedule of detailed engineering activities shall include the following:

1. Survey;
2. Site Investigation;
3. Soils and Foundation Investigation;
4. Construction Materials Investigation;
5. Preparation of Design Plans and Design Analysis;
6. Preparation of Technical Specifications;
7. Preparation of Quantity and Cost Estimates;
8. Preparation of Program of Work;
9. Preparation of Proposed Construction Schedule and estimated Cash Flow for projects with Schedule over six (6) months];
10. Preparation of Site or Right-of-Way Plans including Schedule of Acquisition;
11. Preparation of Utility Relocation Plan;
12. Preparation and Submission of Design Report;
13. Environmental Impact statement for critical project or project in a critical area;
14. Preparation of minimum requirements for a Construction Safety and Health Program for the project being considered; and
15. Preparation of Bidding Documents.

Work under detailed engineering shall include, but not necessarily be limited to, the following:

Design Standards – Design standards shall be in accordance with appropriate standards and accepted detailed engineering practice adopted by the agency concerned. Design standards for structures shall take into account, among other things, the seismicity of the area to determine the optimum safety of structures and to minimize possible earthquake damage.

Field Survey and Investigations – Necessary field surveys and investigations which may include aerial, hydrographic, topographic, hydrologic, sub-surface and other surveys shall be carried out in accordance with the design guidelines, criteria and standards adopted by the agency concerned. All survey and investigation works shall be prepared in a manner satisfactory to carry out accurate design and production of plans.

Contract Plans – The following plans shall be prepared for each construction contract in accordance with guidelines and standards adopted by the department of Construction and Development (C&W) department, Khyber Pakhtunkhwa, incorporating at least the following:

1. Site development plan;
2. Plans and profile sheet;
3. Typical sections and details;
4. Drainage details where applicable;
5. Structural plans at appropriate scales indicating all details necessary in order that the complete structure can be set out and constructed; and
6. Other details which may be required.

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Quantities – All construction quantities shall be computed to a reasonable accuracy of plus or minus ten percent (10%).

Special Provisions – Specifications shall be prepared for specific items of work or methods of construction, measurement and payment under each contract, which are not covered by standard construction and material specifications adopted by the C&W department, Khyber Pakhtunkwa.

Unit Prices – these shall be prepared for each contract using costs based on reasonable approved current prices as projected over the proposed construction period, divided into local and foreign exchange costs, as the case may be.

Approved Budget for the Contract

Bidding Documents

Program of Work – the program of work must include, among other things, estimates of the work, items, quantities and the other associated costs of the project activities.

	Checklist item	Y/N/ NA	Date checked	Comments
1	Have the requirements from the user been received?			
2	Whether there was a clear business need for the product or service. The procurement should be essential for the conduct of normal business or to improve performance.			
3	Would the Procurement address future phases of the service or purchase of goods that may be required?			
4	Are the funds available or committed to meet the procurement?			
5	Have the requirements been incorporated in the Procurement Plan?			
6	Has the advertisement been issued?			
7	If it is an emergency procurement, has it been declared so by the competent authority and due exemptions provided from KP-PPRA rules?			
8	Have the specifications/BoQ/Drawings/ToR been defined and available to bidders?			
9	Has the procurement method been defined?			
10	If it is an International or a National Competitive Tender, were requirements to apply margin of preference in favor of local firm observed?			
	Has consideration been given to whether any specific procurement policies apply such as Environment issues as stipulated in Regulations?			

4. Sourcing

Process of identifying desirable vendors for provision of requisite goods, services or works in the light of annual procurement plan is called sourcing. Though this practice is not very rampant in public sector and usually market is scanned only for selected items to fix reserve price and find specifications of available items. Other than providing valuable information regarding product specification and market pricing, it also helps in determining the solicitation method and type of competition. Sourcing helps department to ensure sustainability through identifying appropriate vendor who is better positioned with requisite flexibility to manage sustainability impacts in supply chains.

Broadly, sourcing is done through two methods; which are, market scanning and advertisements of requirements either through open competition solicitation or through sourcing methods (FRI, EOI, pre-qualification).

4.1. Market research

During market research, relevant sectors of industry are scanned through collection and analysis of information to gauge their capabilities and overall market supply. It helps to identify goods, services, works and suppliers; assists in the development of technical specifications, TORs, SOWs, design documents, department's requirements for design & construction and TORs for consultant services for works allows the collection of product and pricing information on available technology. Market research becomes essential when the price of product to be procured is sensitive to market trends and address needs of the department. It can be done through external as well as internal sources and department should rely solely on any one of these sources and several sources must be used in combination before finalizing method of solicitation and type of competition. The outcome of the market research, i.e. a list of suitable suppliers identified, must be documented in the procurement case file in the relevant section of procuring entity

Why is Market Sounding Taken?

Prior of any procurement exercise, Procuring Entity may wish to assess the reaction of the marketplace to a particular requirement or procurement process. Particular areas of interest might be:

- To more accurately estimate the required budget for a particular contract;
- To refine and further clarify the requirement and/or produce the specification;
- To identify potential suppliers; and
- To develop general market knowledge.

4.2. Advertisement

For all procurement, other than those being covered by rule 10 (KPPRA rules 2014) shall be advertised in print media, appearing in at least one national English and one Urdu daily newspaper with nationwide circulation along with advertising the same either on the procuring entity or Authority website or both (please refer to KPPRA rules 2014):

1. Advertisement for open competitive bidding of an RFQ, ITB or RFP;
2. Request for information (RFI);

3. Request for Expression of Interest (EOI);
4. Pre-qualification of vendors.

Business opportunities must be advertised on entity's as well as Authority websites. In addition, it should be advertised or distributed in a manner that, according to the nature and circumstances of the required product, would lead to the most beneficial responses. When using advertisement for open competition bidding, there will be no short list selection; all eligible suppliers wishing to submit bids and participate in the competition are invited to do so. Though advertisement may result in large number of responses; however, the benefit of wider competition compensate for extensive evaluation exercise. Lower responses, however, if feared due to less review of advertisement then even potential vendors can be notified of the notification's existence. But while doing so, care should be taken all the potential bidders must be notified at the same time and such procedure must be documented for proper filing and future reference.

4.3. Request for Information

Request for information is a process of collecting information about the description of available or alternate sources for fulfilling of requirement of the department in addition to determination of cost and delivery time of such alternatives. This is a kind of instrument to conduct market survey to seek technical alternatives, options or solutions, costing, range and other terms and conditions than depending solely on the direct response of an offer from the market or industry. An RFI is an effective and efficient tool to help procuring entity identify a possible solution for a specific requirement. RFI is not adopted as set procedure in public sector; however, few procuring entities take the pain to interact with industry at personal level for seeking better clarification for better positioning in the Tender document.

4.4. Request for Expression of Interest

A request for EOI is an advertisement to identify suppliers that wish to participate in a solicitation. Suppliers are requested to express interest before a specified deadline by submitting detailed information demonstrating experience and qualifications in provision of the relevant goods/services/works. The information provided by interested suppliers is assessed and suppliers are considered for inclusion on the short list of companies that are invited to submit detailed offers/proposals.

Benefits of Market Sourcing:

Saving time and effort by bringing a precise focus to later procurement activities

Early visibility of issues that will affect the Procurement

Early understanding of potential risks

Develop more competitive procurement strategies

Ensure and enable capacity to meet future programs and procurement requirements

Key Areas where Market Sourcing may assist:

Assessing the feasibility of a proposed procurement

Assessing the capability of the market place to deliver

Assessing whether there is an established market to respond with an adequate number of suppliers

Assessing the capacity of the market to deliver

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A request for EOI is a cost-effective method to identify suitable suppliers. However, it requires allocation of additional time, as suppliers must have a sufficient interval to respond to the call for EOI. Depending on the complexity and nature of the goods/ services/works being procured, a recommended minimum of two weeks for national and four weeks for international biddings shall be granted for responses. EOI should be used when there is an over-supply of potential bidders; it allows for the review of suppliers' qualifications in order to make sure the most qualified are invited to bid. An EOI is typical for a consulting assignment and/or assignments where technical expertise is critical.

4.5. Pre-qualification of Vendors

Pre-qualification is a formal method of assessing suppliers against pre-determined criteria and a pool of suppliers is established for invitation to specific nature of procurement only if amount of bid reaches to certain threshold level. The process guarantees that solicitation documents are extended only to suppliers with adequate capabilities and resources. Pre-qualification is a formal process where supplier appraisal is done prior to issuing the solicitation documents. If prequalification is done for a specific procurement activity, all suppliers submitting applications and meeting the prequalification criteria shall be invited to tender. Pre-qualification does not preordain a contract.

Pre-qualification is recommended when:

1. Complex or specialized goods, works or services are being procured;
2. A particular type of good or service is procured on a regular basis and for which establishment of LTAs would not be an appropriate procurement strategy (e.g. not resulting in competitive prices);
3. A high degree of risk is involved in the procurement (e.g. security and safety equipment and services);
4. The high costs of preparing detailed bids could discourage competition (such as custom-designed equipment, design and build projects or specialized services);
5. The goods or services are critical project inputs (i.e. late delivery or the delivery of a wrong product or service would have costly implications);
6. The requirement is for construction works with complex technical components for which the supplier needs to have minimum technical capability and capacity to complete the works to the required quality standard.

Pre-qualification may be useful in reducing the risk of contract failure and is therefore advisable for the procurement of complex works. The time required for pre-qualification of contractors should be balanced against lessened risk and the reduced time needed for tender evaluation at later stages in the procurement process. In cases where there are several qualified and eligible suppliers, pre-qualification may also reduce procurement costs.

	Checklist item	Y/N/NA	Date checked	Comments
1	Did the advertisement get approval of the competent authority?			
2	Had procuring entity allowed suppliers			

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	sufficient time for submitting the necessary information and preparing the tenders? (taking into account holiday periods etc)			
3	Did procuring entity put advertisement in the newspapers of national circulation and foreign or international publications or trade journals in the case of international tendering?			
4	Has a copy of the advertisement been posted on the websites of procuring entity & KP-PPRA			
5	Was a policy on late or incorrect form of submission stated in the invitation?			
6	Ensure that additional information supplied to one party, in response to a request, is supplied to all interested parties if it could be significant in the context of preparing a tender.			

5. Solicitation

Solicitation is the process of officially interacting with the potential vendors (suppliers, contractors or consultants) with a request to offer a bid, quotation or proposal. The selection of method used to communicate a procurement requirement and request an offer from potential vendors must be based on expected procurement value, nature of requirement or combination of both and the options available are request for quotation (RFQ); invitation to bid (ITB); or request for proposal (RFP).

5.1. Preparation of bidding document

The end user unit, through the procurement committee and with the assistance of the specialist of line departments, the Secretariat or a consultant, shall prepare the bidding documents following the standard forms prescribed by the Khyber Pakhtunkhwa Public Procurement Authority (KP-PPRA). The bidding documents are issued to provide prospective bidders all the necessary information that they need to prepare their bids. The bidding documents shall clearly identify and/or adequately define the following, among others:

1. The objective, scope and expected outputs and/or results of the proposed contract;
2. The technical specifications of goods to be procured;
3. Expected contract duration, the estimated quantity in the case of procurement of goods, delivery schedule and/or time frame;
4. The obligations, duties and/or functions of the winning bidder; and
5. The minimum eligibility requirements of bidders, such as track record, registrations, licenses, among others.

The bidding documents shall include the following component documents:

1. Invitation to Bid;
2. Instruction to Bidders (ITB/BDS);
3. Conditions of Contract (GCC/SCC);
4. Schedule of Requirements;
5. Technical Specifications; and
6. Required/Sample Forms.

The following information should be contained in the foregoing documents:

How is Positive Procurement Culture created?

A positive public procurement culture is one of the Public Procurement top policy priorities for raising the standards of public services throughout the public sector and delivering a better public service. It includes:

The development of strategic departmental policies and procedures to ensure modernized procurement approach;

To ensure commitment to procurement policies and procedures at the Top level;

Making best value for money central to any procurement activity;

Allowing all potential suppliers to compete for business on equal terms;

Promoting long-term thinking and commitment to strategic procurement issues; and

Ensuring that all procurement is undertaken with appropriate qualified professional and experienced staff

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1. Approved budget for contract and source of funds;
2. Date, time and place of the pre-bid conference (if applicable) and the submission and opening of bids;
3. Eligibility Requirements;
4. ITB, including criteria for eligibility, bid evaluation and post-qualification, and the submission and opening of bids;
5. Technical Specifications;
6. Form of Bid, Price Form, and List of Goods or Bill of Quantities;
7. Delivery Time or Completion Schedule;
8. Form, amount and validity period of Bid Security;
9. Form and amount of Performance Security and Warranty; and
10. Form of Contract (GCC/SCC)

The procurement committee may include additional documentary requirements or specifications to complete the information that may be required of the prospective bidders in support of their bid, or to enable them to fully and properly prepare their bids. The specifications and other terms in the bidding documents shall reflect minimum requirements as will satisfactorily meet the requirements of procuring entity or the end-user unit concerned, in clear and unambiguous terms. They shall be set and stated in such a way as to encourage a reasonably broader base of competitors and allow any bidder to submit an offer that provides for superior specifications and/or better terms and conditions at no extra cost. Superior specifications and better terms and conditions shall not be given any bonus, credit or premium in the bid evaluation.

In the preparation of the bidding documents, the procuring entity and its support units shall be guided by the following policies, among others:

1. That all prospective bidders should be provided the same information, and should be assured of equal opportunities to obtain additional information on a timely basis; and
2. That every prospective bidder should have fair access to the bidding documents and ample opportunity to prepare for a bid. For this reason, any additional information, clarification, correction of error, or modifications of bidding documents should be sent to each recipient of the original bidding documents in sufficient time before the deadline for receipt of bids to enable bidders to take appropriate actions. And when necessary to put this policy in effect, the deadline for submission of bids should be extended.

The bidding documents must be prepared in time for the presentation at the pre-bid conference. After the conference, and before the advertisement and/or posting of the Invitation to Bid, it should be ascertained that these documents will be ready and available for issuance to prospective bidders on the day the Invitation to Bid is first advertised. The procuring entity may charge the prospective bidders with reasonable fees for the provision of the bidding documents. The amount as so charged shall cover the cost of development and production of the bidding documents.

5.2. Types of Competition

Whatever the solicitation method is adopted, the procuring entity shall use open competitive bidding as the principal method of procurement for the procurement of goods over the value of Rs. 100,000 (rupees one hundred thousand) or as otherwise provided in the provisions of Rule 10 of KP-PPRA Act. Purpose of open competition is to provide all potential suppliers with adequate time, equal access and fair opportunity to compete for contracts for required goods, services or works.

Most Economically Advantageous Tender (MEAT): Meat is fast becoming most popular evaluation method in public sector procurement. Procuring entity need to have the capabilities to carry out an evaluation based on price and quality, technical merits and functional characteristics; and the tenderers equally need to understand how to prepare a tender.

National/regional tenders are typically conducted in the following cases:

1. When works are scattered geographically or spread over time, and the works would likely not be of interest to international companies;
2. Where from a total cost perspective it is beneficial to obtain the goods, services or works locally;
3. When services are related to the national context (e.g. advertising services in national newspapers, local licenses required to operate, etc.);
4. If knowledge of the national/regional system is a requirement;
5. If national/regional sourcing provides demonstrable benefits in terms of reduced environmental impacts, increased national ownership or other reasons, and/or if so specified in the project agreement;
6. If required by the client and specified in the respective client-donor agreement; and
7. Where goods sourced locally have a positive sustainability impact, e.g. eliminating transportation costs.

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 provisions of the Act complemented with the following provisions:

1. The tender documents shall be in English language;
2. The invitation to tender shall be in English language and shall be placed in newspaper of sufficient circulation to attract foreign competition and may also be placed on international web pages famous for international bidding advertisement. In addition, a procuring entity may transmit such invitations to their embassies and trade representatives of potential supplier countries;
3. 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 thirty days;
4. Technical specifications shall, to the extent compatible with national requirements, be based on international standards or standards widely used in international trade;

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5. 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;
6. General and special conditions of contract shall be of a kind generally used in international trade; and
7. Standard bidding documents (SBDs) for goods, works and services shall be used for international competitive bidding (ICB) as well.

In any event, it is essential to ensure competitiveness of the solicitation process; national/regional competition must be used to attract enough suppliers of the goods/services/works in the area so that healthy competition could be maintained. Further, the risk of cartels forming (i.e. suppliers uniting for common profit and defeating the purpose of competition) must be monitored.

5.3. Sole Sourcing or Direct Contracting

Sole sourcing, also known as direct contracting, is when there is no competitive marketplace for a requirement, i.e. the product or service needed is available only from one source. A procurement agency shall only engage in alternate method if the following conditions exist, namely:

1. Repeat order within the period of six months; provided it does not exceed 15% of original contract value;
2. where the procurement concerns the acquisition of spare parts or supplementary services from original manufacturer or supplier or sole distributor; provided that the same are not available from alternative sources;
3. where the same goods are not available from alternative sources or only one contractor, manufacturer or supplier exists for the required procurement;
4. Where civil works are to be contracted and are a natural extension of an earlier or ongoing job and it can be ascertained that the engagement of the same contractor will be more economical and will ensure compatibility of results in terms of quality of works subject to limitation of repeat or variation order;
5. Where the price of Goods is fixed by the Government;
6. In case of procurement through government organizations, in accordance with provisions of rule-3(2)(c) of KP-PPRA rules;
7. Where a change of contractor or 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, provided that the contract or contracts do not exceed three years in duration;
8. In case of emergency as defined in KP-PPRA rules and procurement specified under sub-rule 3(2)(a) and 3(2)(b), provided that the procurement entity shall specify appropriate forum vested with necessary authority to declare an emergency;

9. where the motor vehicles or machinery is purchased from local original manufacturers or their authorized agents at manufacturer's price including transportation charges and other applicable taxes;
10. Subject to the conditions of contract, a procuring entity may, insure a variation order to a contractor to include works which were outside the original scope of works to ensure interests of Government and for reasons of economy, compatibility and efficiency provided that:
 - a) The original contract is still in force;
 - b) The procuring entity has satisfied itself for technical reasons that the placing of the variation order is cost effective;
 - c) The value of variation order is not more than fifteen percent of the original contract; and
 - d) There may be more than one variation orders as long as the total value of all the variation orders remains within 15 percent of the original contract

5.4. Negotiating 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. This procedure shall only be used when,-

1. 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;
2. 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;
3. 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 ensure that price negotiated is either equal to or less than the previous rate of the same item procured through open bid, and the report must record its reasons and justifications in writing for resorting to negotiated tendering and shall place the same on record or procuring entity may contract the previous supplier for supply at the previous agreed rate; thereby placing the order with modification/extension to the Contract.

5.5. Solicitation processes through open competition

Generally four methods of solicitation are used in public sector; namely, Shopping, Request for Quotation (RFQ), Invitation for bid/Notice inviting tender (IFB)/ (NIT) and request for proposal (RFP). Out of which the first two are informal while remaining two are formal in nature. Selection of solicitation method is affected by number of factors, out of which market conditions, the complexity and nature of goods, services or work required, financial worth of bid, government priorities, geographical spread and urgency are the most important.

5.5.1. Shopping

Shopping is procurement of requirement up-to Rs. 50,000/- which can be undertaken by obtaining a single quotation through direct sourcing. It is an informal method of solicitation appropriate for the procurement of readily available off-the-shelf or standard specification goods or simple works or services worth said amount. Shopping is undertaken by based on the comparison of prices obtained from potential suppliers, received orally or in writing. Prices taken orally must be written down carefully, dated and kept in the file. A note to the file for an award made under the shopping solicitation method shall be used to justify the selection of vendor.

5.5.2. Request for Quotation

An RFQ is also an informal method of solicitation. It is used for low value procurement (between 50,000 and 100,000) where the requirement for goods, services or works is clear and specific. RFQs must have a clearly defined submission deadlines like time date and address for submitting quotations, which must be specified in the RFQ document and communicated to all prospective bidders. Request for quotation must be sent to all prospective bidders, simultaneously, with full contents and same information, which is duly acknowledged to be received. If quotations received are less than three in number then written reasons to justify it must be recorded in the minutes of procurement committee. Quotations in response to an RFQ must be received in writing. In case, amount pertaining to applicable tax is not added in the quotation, comparison of price is made after adding amount of applicable tax; and during comparison, each item should be compared to the corresponding respective specification and bid evaluated to the corresponding total cost of the bid. Detailed procedures of treatment to RFQs, right from bid receipt to bid opening and contract award, are discussed in next chapters.

5.5.3. Invitation to Bid

An ITB is a formal method of solicitation where prospective suppliers are requested to submit a bid for the provision of goods, services or works. It is normally used when the requirements are clearly and completely specified. An ITB is mandatory for procurements equal to or above Rs. 100,000, ITBs must have a clearly defined submission deadline, which must be specified in the ITB document and communicated to all prospective bidders. Bids in response to an ITB must be received in writing. ITBs are based on a one-envelope system, i.e. the financial and the technical components of a bid are combined in one single document. Detailed procedures of bid receipt and bid opening are discussed in coming chapters. An ITB can either define the minimum requirements a good or service has to meet or must outline a range of acceptable requirements. During evaluation, a bid is compliant based on pass/fail criteria. Contracts are awarded on the basis of the 'lowest priced substantially compliant offer' evaluation methodology, including delivery terms, and any other technical requirements stated in the ITB.

5.5.4. Request for Proposal

An RFP is a formal method of solicitation. It is used for procurement of services and goods when requirements cannot be expressed quantitatively and qualitatively (e.g. consulting or similar services) at the time of solicitation or for the purchase of complex goods or works

where the requirements may be met in a variety of ways and an evaluation based on cumulative analysis is most appropriate. An RFP requests a technical proposal which offers a solution to the requirements specified in the solicitation document. A separate financial proposal indicating all costs associated with carrying out the technical proposal is also sought.

The purpose of the RFP method is to make sure the technical evaluation focuses solely on the contents of the technical proposals without influence from the financial proposals. RFPs are subject to the bid receipt and opening procedures outlined in coming chapters, including the requirement for separate opening sessions for technical proposals (all proposals received) and financial proposals (only for proposals deemed technically compliant after evaluation).

The evaluation criteria are established in the RFP by identifying the technical and financial evaluation factors and weighting the key areas of importance that will be considered in the source selection. Weightings of technical and financial proposals can be in either: 80%-20%, 70%-30%, 60%-40% or 50%-50%.; however, it needs careful consideration on a case-by-case basis to achieve the appropriate balance. Once such weighting formula is finalized then it must be brought in writing explicitly in bid solicitation document (BSD). Thumb rule for deciding weightage formula is “the lower the complexity of the requirements, the higher the financial weight must be”. In addition, the RFP must state a minimum passing threshold in terms of percentage of the total points of the technical proposal (normally 60% or 70% of total points) which will determine if the proposal is deemed technically responsive and feasible to be considered for financial evaluation.

Proposals are evaluated, ranked and awarded according to the ‘cumulative analysis’ evaluation methodology, defining best value as the paramount overall benefit when considering technical and financial factors. The contract is awarded to the qualified contractor whose proposal is considered to be the best value (technical and financial) and the most responsive to the needs of the department.

What Types of Specification can be used? There are three basic approaches for development of Specifications:

Input or process specifications, this specification is process based and is usually used in procuring services where certain processes need to be adopted e.g. Human Development program through capacity building trainings

Output or performance specifications, it is normal practice to use output specifications where you believe the sector can offer a innovation, creativity, additional value added services within the bid or the client is not clear what is available within the market place e.g. ICT system

Technical design specifications, the use of technical specifications is limited to markets where there is a very precise business need or it is statutory requirement e.g. maintaining back-up servers and data warehouse

5.6. Sub-Contracting

A contractor may be allowed to subcontract a portion of the contract or project, except that he should not be allowed to subcontract a material or significant portion of the contract or project, which portion must not exceed fifty percent (50%) of the project cost. The bidding documents must specify what are considered as significant/material component(s) of the project. Moreover, except if otherwise provided by the contract, it should not subcontract any part of the works without the prior consent of the procuring entity. However, this consent shall not relieve the contractor of any liability or obligation under the contract.

The contractor shall be responsible for the acts, defaults and negligence of any subcontractor, his agents, servants or workmen as fully as if these were its own acts, defaults or negligence, or those of its agents, servants or workmen. All subcontracting arrangements must be disclosed at the time of the bidding, and subcontractors must be identified in the bid submitted by the bidder. For them to be allowed to do so, subcontractors should also pass the eligibility check for the portions of the contract that they will undertake.

No sole authorized vendors and/or public sector organizations are permissible to sublet contract to petty contractors as it create lot of hurdles and complications during monitoring and quality assurance during execution.

5.7. Solicitation Bid Document (SBD)

KP-PPRA standard solicitation documents must be used when soliciting offers from suppliers through ITB or RFP (provided on the authority website). While the details and complexity of solicitation documents may vary according to the nature and value of the requirements, they must contain all information necessary to prepare a suitable offer. These solicitation bid documents contains all mandatory requirements, terms and conditions (which can be customized to fit the specific requirements) and the procurement method being undertaken. These solicitation bids must be completed in all respects to share with the potential vendors during the bid submission period. Addition of any special terms and conditions in the SBD must not go in contradiction of general terms and conditions.

5.7.1. Components of Solicitation Bid Document (SBD)

Standard Solicitation Bid Document (SBD) is written document uploaded on the Authority and mainly consists of following components:

1. Request for proposal;
2. Letter of invitation;
3. Instructions to bidders;
4. Forms of bid;
5. General terms and conditions;
6. Special terms and conditions;
7. Qualification criteria;
8. Schedule of requirement;
9. Bank guarantees and performance surety forms; and
10. Purchase order/Contract agreement.

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While the details and complexity of solicitation documents may vary according to the nature and value of the requirements, each solicitation must contain all information and appropriate provisions that are necessary for bidders to understand departmental needs and to prepare a meaningful offer. Thus, the solicitation documents must include all information concerning a specific procurement activity and be as concise as possible. As no new requirements must be introduced or existing ones must not be changed after the solicitation process has been completed, it is crucial that all relevant information is presented at this stage.

5.8. Evaluation Criteria

Evaluation criteria are the integral part of the Solicitation documents and it must be included in the document according to the solicitation method selected. The broader contours of the evaluation for various methods of solicitation are as follows:

Method of Solicitation	Basis of Evaluation
Request for Quotation (RFQ)	Lowest priced – most technically acceptable
Invitation to Bid (ITB)	Lowest priced – Substantially compliant offer
Request for Proposal (RFP)	Cumulative analysis

However, whatever the method of solicitation adopted; following criteria are mainly considered in various combinations for evaluation purposes:

1. Formal and eligibility criteria;
2. Qualification criteria;
3. Technical criteria;
4. Financial criteria.

The evaluation criteria shall be appropriate to the type, nature, market conditions, and complexity of what is being procured, and should be clearly specified in detail in the solicitation document. Evaluation criteria should be designed to enable department to achieve best value for money. Once the evaluation criteria have been drafted, procurement practitioners are recommended to perform a simulation applying the developed evaluation criteria to various probable situations expected to be encountered in the evaluation process. The objective of the analysis is to demonstrate the adequacy of the criteria to the given requirement and market.

5.8.1. Formal and eligibility Criteria

At the preliminary stage, formal and eligibility criteria are evaluated to screen out the ineligible bidders.

Formal criteria

Examples of formal compliance criteria are:

1. Offer is made on the prescribed tender forms and signatures are affixed on the key portion of the bid submission form as clearly specified in the tender document;

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2. The offer includes all documents (historical & non-historical) required in the solicitation document. A non-historical document is a document specifically related to the tender and one that the bidder could not be expected to possess before the solicitation document was issued, e.g. a bid security. Whereas, historical document is the one which the bidder holds prior to signing of bid like power of attorney. If no valid POA was available at the time of signing of bid then it would render bid substantially non-compliant; however, for being a historical document, if such POA is found invalid and defective then procurement committee has to ascertain that if the bidder has in their possession a valid pre-existing POA in favor than that could qualify the bid as substantially compliant. If no such document exists or the document produced is fresh, i.e. it is a non-historical document, the bid would be non-complaint;
3. The offer is accompanied by the required securities (bid security & performance security) when applicable;
4. The goods or services offered are of eligible origin;
5. The offer covers the requirement in full or in part, specifically for partial bids;
6. The offer includes evidence of acceptance of the general terms and conditions of the Contract agreement;
7. The offer includes evidence of acceptance of special terms and conditions of Contract agreement as well as performance bond, warranty, delivery schedule and payment terms.

Eligibility criteria

Each of solicitation bid document includes certain eligibility condition which are mandatory to fulfill for qualifying to next stage. They include but not limited to following:

1. Whoever is eligible to participate in the bid must be categorically mentioned in solicitation bid document;
2. Conflict of interest as discussed in first chapter must be avoided;
3. Vendors is not included in the list of blacklisted firms as declared by any of Federal or Provincial public procurement authorities;

5.8.2. Qualification and Technical Criteria

Technical Evaluation comprises of evaluation of Qualification as well as Technical criteria.

Qualification criteria

Qualification criteria, as the name describes, are evaluated on Pass/Fail basis and must be included in the solicitation bid document. They are also precisely mentioned in the RFQ, ITB or RFP and evaluation of whole qualification criteria is must for qualification of vendor; regardless whether these were included in RFQ, ITB or RFP or not?

The extent of the supplier's qualification criteria must be reasonable and must consider the value of the contract and the complexity of the solicitation. The following aspects could be considered:

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1. Legal and regulatory requirements such as registration certificates, licenses, standards etc.;
2. Technical capability and experience:
 - a. Successful past performance experience;
 - b. Previous experience in a similar field and with the same or similar type of requirements;
 - c. Minimum requirements regarding value of previous contracts;
 - d. Experience in the region;
 - e. Available capacity and equipment to undertake the assignment;
 - f. Availability of after sales services or agents in the country of delivery;
 - g. Qualification and experience of proposed personnel;
 - h. Managerial capability such as the company's managerial structure and quality assurance systems in place;
 - i. No adverse reports in the last years;
 - j. Evidence that the bidder is in continuous business of providing similar goods/works/services to those offered during a number of years prior to the bid opening date;
 - k. Institutional and workload capability such as capacity and availability of production site, staff etc.;
 - l. Experience in delivering the social and sustainability requirements described in the tender documents;
 - m. Operation's sustainability controlled according to formal management systems (i.e. dealing with social, environmental, health and safety performance), with or without international third-party certification;
 - n. Demonstrated organizational commitment to sustainability;

Financial capability, such as:

1. Annual sales turnover of a minimum amount during one/various of the last years;
2. Minimum financial profitability and liquidity ratios.

Technical Criteria:

Technical Criteria is fundamental part of Technical Evaluation and it also helps procuring entity to screen out eligible vendors for the next stage. For RFQs, the technical criteria are compliance to specifications and other requirements for evaluation; while, for RFQs, and ITBs, method of scoring points/rating is adopted during evaluation process.

For RFPs, cumulative analysis evaluation method is used, where technical evaluation criteria mainly comprised of approach and methodology proposed to reach the expected results or solve the identified problem as described in the requirement definition (TOR or SOW). In these cases, the solicitation documents must clearly state the breakdown of percentage or points allocated to each overall criterion. It can be demonstrated as follows:

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S/No	Description of Variable	Total Score	Points awarded by Procurement Committee			
			Evaluator A	Evaluator B	Evaluator C	Evaluator D
1	Experience	20				
2	Approach, Methodology and work plan	50				
3	Organization & Staffing	30				

Sometimes, for complex and long term contract awards, Departmental Procurement Committee may consider a number of technical points for interviews/oral presentations for all bidders or those that have achieved a minimum number of points upon evaluation of the documentation submitted. It is important to manage the process properly, and in particular, ensuring the RFP includes wording on the purpose of the presentations, which is normally to validate the information provided by the offeror in their proposal and to test the offeror's understanding of the work. Dates of such presentations to the Procurement Committee must be mentioned in the Solicitation Bid Document.

The following tables outline the advantages and disadvantages of different methodologies that need to be considered by Procurement Committee.

Input Specification:

Advantages	Disadvantages
Suppliers are clear on the inputs required by the Procuring Entity	The specification documentation generally requires more effort to produce
The Procurement Committee is able to determine the processes used in the delivery of the contract	Suppliers have less opportunity to show innovation in their approach to the contract
The Procurement Committee can specify inputs that can more easily be monitored	The inputs set out in the specification need to be well researched to ensure they are the most economically advantageous option to reach the objectives of the contract
Procuring Entity has more control over the processes used to achieve the outputs	

Output Specifications:

Advantage	Disadvantage
Suppliers have greater opportunity for innovation, as they are free to offer solutions that in their view best meets the specification	Generally requires a more proactive approach to monitoring
The specification documentation requires less effort to produce	May make evaluation more difficult as one may end up comparing "apples" and "oranges" with a wide variety of prices. In these circumstances, evaluation committee will require more complex evaluation criteria.
There is more opportunity to pass risk onto the supplier, as they have responsibility for the way the specification is met	
The Procurement Committee can specify	Procuring Entity may not be happy with the

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outputs that can easily be monitored. There is likely to be a wider choice of suppliers

process used to achieve the outputs

Technical Specification:

Advantages	Disadvantages
With prescriptive specifications there is little scope for misunderstanding	Discourages innovation
Evaluation should be more straightforward as price can be a greater deciding factor	Puts more risk on the Procuring Committee. If specification is incorrect Procuring Entity will have to pay for variations
Emphasizes critical requirements	Greater chance of over-specifying and therefore increasing the price unnecessarily

5.8.3. Financial Criteria

One of the major concerns during procurement is to acquire requirement on the most affordable price; however, how much weightage should be given important evaluation criterion on the chosen evaluation methodology. Financial criteria includes many factors like freight cost, operational cost, incidental cost, operating cost life cycle cost and disposal cost which could be taken into consideration. For services and works a template for breakdown of cost should be provided e.g. in Bill of Quantities for works. It is essential to mention that which price factor would be considered for evaluation in the Solicitation bid Document. Most effectively, required break-up with the expected weightage in the evaluation criteria must be taken out and shared with potential vendors.

To comprehensively cover all the factors in the financial evaluation, full life cycle cost of a product must be mentioned in the solicitation bid document for evaluation. It includes:

1. Product cost (initial cost);
2. Freight cost;
3. Operational cost (e.g. electricity, fuel, consumables);
4. Installation and training cost;
5. Maintenance cost (e.g. after sales services, repair, spare parts);
6. Disposal cost or residual value at end of use.

Life cycle costing should be used when the costs of operation and/or maintenance over the specified life of the goods or works are estimated to be considerable in comparison with the initial cost and may vary among different offers received. Selection of the lowest priced offer based on lifecycle costing analysis can lead to win-win situations when cost savings go hand-in-hand with better overall sustainability.

When using life cycle costing, the solicitation document shall specify:

1. Number of years for the life cycle cost consideration, i.e. the number of years that the product or service is expected to be used;

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2. The discount rate, in percent, to be used to calculate the net present cost of future costs over the life cycle period specified in (a) above, if applicable;
3. The methodology to be used for calculating the operation, maintenance and residual value costs, including the information to be provided by bidders in their offers.

All financial proposals (offers) shall be considered inclusive of all prevalent taxes. If any tax is not mentioned explicitly in the offer then such tax shall be added to the offer for comparative analysis with other bidders. In case, any bidder at the time of bidding presents tax exemption certificate which others bidders did not have at that time for the bidding of same product then it is must that such exemption is verified from the concerned authority and brought it in the knowledge of other bidders to ensure transparency in the process as well as sustainability of Contract in the longer run.

Procurement Committee has the leverage to state few exceptional states in the solicitation document to ensure successful implementation of Contract like:

1. Bids will be rejected if they are lower/higher than a defined percentage from the average price of technically compliant bids received. These reserve prices can be acquired from the offers received from the same nature contracts previously made or fixed prices offered by the government department for the same products or average of offers received in various regions during the same time for the same product;
2. For procurement of works, that bids that are outside a defined range (e.g. +/- 20%) of the latest scheduled rates will be rejected. Such a provision may be appropriate if the procuring entity has reasonable grounds to believe that there is a risk of inexperienced contractors bidding unrealistically low and then being unable to perform satisfactorily.
3. In addition, procuring entity also reserves the right to seek clarification from the bidder during evaluation stage for offering abnormally high or low prices for the product and on the clarification of the bidder, respond accordingly. In case bidder admit omitting of costing of certain important activity at the clarification stage then that it will automatically turn its bid non-complaint with expulsion from the bidding process.

Analysis of Cost

Type of Cost	Detail of Cost
Acquisition	Purchasers Legal costs
	Cost for Writing Specification
	Purchase Price/Rent/Hire Purchase Price
	Software Licenses
	Fees to copyright holders
	One-Off License Fees
	Cost of Transportation to Site
	Installation Costs
	Preliminary Inspection Costs
	Sustainable Development Costs
Operating	Insurance

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Disposal	Accommodation of staff
	Annual License Fees
	employees' Wages and Salaries
	Fuel and Electricity
	Cleaning Costs
	Periodic Inspection Costs
	Spare Parts and Other Maintenance Costs
	Sustainable Development Costs
	Sellers Legal Costs
	Costs of Removing Installations
	Cost of Transportation from Site
	Refuse Disposal Charges
	Site Clean-up Costs

5.9. Evaluation Criteria for joint venture

Occasionally, bidders tend to make them eligible through forming association with each other in the form of Joint venture, consortium or association as individually they do not have all the expertise required for winning the contract of provision of the services/goods/work. It is pertinent to mention that:

1. All parties of such joint venture, consortium or association shall be jointly and individually liable to the procuring entity for any obligations arising from their offer and the contract that may be awarded to them as a result of the solicitation process;
2. The offer shall clearly identify the designated entity designated to act as the contact point to deal with procuring entity, as detailed in the appropriate returnable form/schedule. Such entity shall have the authority to make decisions binding upon the joint venture, association or consortium during the bidding process and, in the event that a contract is awarded, during the duration of the contract; and
3. The composition or the constitution of the joint venture, consortium or association shall not be altered without the prior consent of procuring entity
4. Where joint ventures are anticipated in a solicitation process, the solicitation document should state how each evaluation criteria will be applied, i.e. if the criteria applies to:
 - a. All joint venture members combined must meet it;
 - b. Each joint venture member must meet it;
 - c. At least one of the joint venture members must meet it.

Normally, qualification criteria such as specific experience requirements and turnover requirement refer to all joint venture partners combined, whilst eligibility criteria are per each joint venture partner (non-inclusion in ineligibility lists, etc.).

5.10. Schedule of requirement

Schedule of requirements may include:

1. Depending on the nature of the procurement activity, the requirements are stated in the form of technical specifications, SOWs, design documents, departmental Requirements for design and build and TORs for consultant services for works;

2. In order to prevent misunderstandings and disagreements with suppliers at the time of contract execution, it is important to clearly state and describe the performance expected from the supplier. Ambiguous performance requirements or missing processes in the schedule of work may also lead to increased costs, as bidders may have to factor into their bid a contingency or risk buffer;
3. Delivery date for goods or starting/completion dates for provision of services/works;
4. When procuring goods, the destination(s), and mode(s) of transport, shall be included. For services and works, destination/location shall be specified;

5.11. Distribution of Solicitation Bid Document (SBD)

Under open competition, the solicitation documents shall be issued and distributed simultaneously to all potential suppliers participating in the forthcoming bid (by mail, courier, fax, or email), and be made available electronically on the websites of the procuring entity and Authority, so that all bidders are given the same opportunity to respond. They must also be made available to all interested suppliers upon request.

In a pre-qualification process, where only selected suppliers may participate in the solicitation, the solicitation documents shall be made solely available to pre-qualified suppliers. The pre-qualification of the participating firms must be done through documented and approval of the competent authority prior to issuing of Solicitation Bid Document.

If the solicitation documents are issued electronically, procurement officials must make sure that the documents are issued in limited editing format. In addition, the solicitation document must include a clause stating that procuring entity takes no responsibility for effective delivery of the electronic document

In a national/regional competition, documents can be made available to the vendor for collection at a designated location during business hours, and suppliers can be informed accordingly. A signed copy of the solicitation documents must be kept on file by procuring entity together with documentation on where and how long it was posted (e.g. print outs of screen shots from Departmental and Authority posting), and to whom it was issued (e.g. fax receipts, copies of emails, courier receipts, etc.) to facilitate an audit of the process.

5.12. Amendment to Solicitation Bid Document

Prior to completion of deadline for the submission of offers, procuring entity may, for any reason, modify the solicitation bid document so that ambiguities, if any remaining, could be removed. Pre-bid conferences or meetings are good platform to discuss deliverables with the vendors and clarify processes further on own initiative or on the request of vendor for clarification. All such activities must be documented and should become part of solicitation document.

If any amendment made to the solicitation documents then it must be approved by the competent authority and shared with the participating vendors through written correspondence as well as publishing of corrigendum to the ITB or RFP in the newspaper. The amendment must be made within a reasonable time before the deadline for submission

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of offers in order for suppliers to address changes in their offers. In certain cases, amendments will justify an extension of the submission deadline. This should be assessed on a case-by-case basis.

In order to ensure that all suppliers have the same details, amendments of solicitation documents must:

1. In the case of a limited competition, be sent simultaneously in writing to all invited suppliers;
2. In the case of an open competition, be uploaded to the websites of procuring entity and Authority.

Substantial changes to the requirements may lead to re-tendering.

5.13. Cancellation of Solicitation Process

Procuring entity reserves the right to cancel a solicitation without recourse at any time during the solicitation and evaluation process and prior to contract award. The competent authority must approve all cancellations. Conditions that may give rise to a cancellation are:

1. The justification for the initial solicitation is no longer valid;
2. The requirements require material revision;
3. There is a substantial variance between the lowest bid and the cost estimates.

In the event a tender is cancelled, all bidders must receive written notification and offers will be made available for collection by the respective bidder, or procuring entity shall reserve the right to discard such bids unopened without further notice to the bidders. Procuring entity shall not bear any costs associated with returning bids to bidders. The procurement committee must make sure that all bid securities are returned to the bidders.

5.14. Documentation of Solicitation process in case of Direct Tendering

Since direct sourcing / contracting waives out open competition; still, the procuring entity needs to take extreme care and vigilance during the procurement process. Under the direct contracting modality a contract must still be awarded to a vendor whose offer substantially conforms to the requirements at a reasonable price.

The following procurement actions shall still be required:

1. Writing the requirements definition;
2. Soliciting an offer from the selected vendor should be in compliance with requirements definition and the General Terms and Conditions of Contract;
3. Evaluation of offer and carrying out negotiations, if applicable; and
4. Awarding the contract through the notified procurement committee and after acquiring due approval from the competent authority.

For contract with sole vendor or its authorized dealer, there would be no need for requesting for offer through RFQ, ITB or RFP; however, in order to facilitate the evaluation process, procurement committee can request the supplier to provide information on either

a simplified solicitation document or directly through relevant returnable forms/schedules from the prescribed solicitation templates.

5.15. Communication with Vendors

Interaction with potential vendors individually or in isolation during the Tender period is not permissible. All queries raised by the vendors must be handled through written correspondence or through pre-bid conference followed by written minutes which are made available to all potential bidders. However, it is important to mention that all such queries forwarded to procuring entity must be responded in written together with the text of query to all suppliers at the same time but without referencing to the source of the those queries.

To resolve technically complex acquisition issues, pre-decided pre-bid conference between suppliers and procuring entity is effective tool as compared to responding to the queries of each and every bidder separately and then sharing it all potential bidders. Such a conference could be a meeting (in person or remote) or a site inspection.

When conducting a pre-bid conference or site inspection, the following instructions must be adhered to:

1. A time for the conference and/or site inspection must be stated in the solicitation document, allowing sufficient time for all suppliers to plan attendance of the conference and/or site inspection;
2. Pre-bid conferences or site inspections are not mandatory unless valid reasons exist for making such events mandatory (in which case this must be clearly specified in the tender document). If such pre-bid conference or site inspection is not mandatory, then non-participation of bidders to pre-bid conference or site inspection is not cause for eventual bid rejection. If participation in the pre-bid conference or site inspection is mandatory, care must be taken to require participation in the pre-bid conference or site inspection in a manner that is non-discriminatory;
3. The representatives who choose to be present during pre-bid conference or site inspection shall provide reasonable evidence that they represent the potential bidder; e.g. letter of authorization, etc.;
4. Procurement Committee will prepare a list of the representatives attending the pre-bid conference or site inspection and obtain their signatures on the attendance sheet. The list shall also contain the representatives' names and corresponding bidders' names. All participants, if attending in person, must sign the list and indicate the date and time;
5. With regard to submission of bids, supplier representatives should be reminded of important considerations such as the need to:
 - a. Provide in their bid contact details, e.g. name, email address and phone number, of the persons to be contacted during subsequent bid evaluation;
 - b. Carefully review the tender requirements;
 - c. Indicate as early as possible if there are requirements (e.g. specifications) in the tender document that do not seem reasonable so that procuring entity

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can revert to the client in a timely fashion and request amendments to be issued, if justified;

- d. Always check regularly for amendments to avoid quoting for wrong specifications, wrong quantities, etc. which might result in bids being rejected;
- e. Procurement Committee should also highlight to participants at pre-bid conferences the types of errors commonly made by bidders as well provide other advice regarding the making of a valid bid.

For any complex solicitation process, it is recommended to prepare a pre-bid conference with the purpose of clarifying to bidders the most relevant points that they have to understand about work at hand, such as the different roles and milestones established in the contract; securities and insurances that must be provided; and the process for payments, retentions, claims and variations. Providing the necessary bid background, a better understanding of departmental expectations, and a basic understanding of the required contract management will lead to a better quality of bid and reduce misunderstandings that might later lead to delays in procurement execution and reduced value for money.

	Checklist item	Y/N/NA	Date checked	Comments
1	Specification is based on the needs identified in the demand or not?			
2	Are specifications clear, comprehensive generic and not discriminatory?			
3	Ensure that the specifications present the optimum combination of whole-life-costs and/or price to meet your requirements			
4	Have pre-qualification documents and tender notice been approved by the competent authority?			
5	Have realistic estimate of all phases of service or product prepared?			
6	Funds availability or any such commitment to meet the expenditure was established?			
7	Whether procurement entity sought all necessary approvals in adequate time?			
8	Have open competitive tendering procedures been followed?			
9	If non-competitive procurement has been used, have the reasons been documented?			
10	Has the tender number been allocated prior to advertising?			
11	Does the tender document provide all the information necessary to enable potential tenderers to prepare appropriate submissions?			
12	Have the evaluation criteria been developed and approved before issuing			

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	invitations?			
13	Is a clear distinction made between mandatory and desirable criteria?			
14	Has an evaluation matrix been prepared using appropriately weighted evaluation criteria determined in the tender documentation prior to advertising?			

6. Management of Submission

6.1. Treatment of Submission after receipt

In majority of cases, submissions must reach to the procuring entity through mail well before end of deadline for submission. If offers are delivered by hand, designated officer/official of procuring committee must issue a receipt stating the date and time of delivery. For all submissions to be received in response to the ITB or RFP, procurement committee had to appoint an individual who would not be involved throughout the procurement process. This individual must be sensitized on the significance of confidentiality and integrity of bids received through bid receipt process. All bids or proposals must be stamped with time and date of receipt, registered in an offer receipt report, and placed in a locked container, such as a cabinet or safe, until the opening of offers. Access to the container shall be limited to personnel not directly concerned with the procurement function and duly authorized by the head of the relevant procuring entity.

6.2. Modification of Submission

Bidders may modify their offers in writing prior to the submission deadline. The modification shall be submitted as per the submission instructions, and shall be treated like any other offer by procuring entity

6.3. Withdrawal of Submission

Withdrawal of submissions by the suppliers can only be accepted if procuring entity is notified in writing prior to the announced deadline for submission of offers. The withdrawn offer shall be separated from the other bids/proposals prior to bid opening, and shall not be opened. Withdrawal of submissions after the announced deadline shall in principle not be honored, and in such cases procurement committee shall open and evaluate the withdrawn offer together with the other offers. If the supplier has furnished a bid security, procuring entity shall withhold it. If the offer is selected after an evaluation, the bid security must be cashed, unless the supplier is willing to provide the goods/services/works offered in its original submission.

If the supplier is able to justify the withdrawal of its submission, procuring entity may accept withdrawal after the submission deadline. An acceptable justification could be the lack of capacity to undertake the subject assignment due to selection for other assignments in the same period. If the supplier could not have foreseen this, informing procuring entity of its capacity problem might be construed as responsible action and thus procuring entity could accept the withdrawal of submission. Further, it should be considered whether it is in the interest of department to hold the supplier to its offer after it has sought to withdraw. This consideration should be made by the Procurement Authority with overall responsibility for that procurement process.

Regardless of whether or not the withdrawal is justified, withdrawal of submission after the announced deadline for submission is a serious matter. It could lead to a trend that suppliers would make favorable offers and then withdraw them if the market conditions have changed to the suppliers disadvantage i.e. market prices of the product have increased from

the time of submission deadline. Such withdrawal also increases cost of the procurement for the procuring entity in terms of money and time. This attitude need to be discouraged and all such actions must be reported to the Authority and other line departments for careful dealing with such vendors in future.

6.4. Late Submissions

Procuring entity will not accept submissions after the stated deadline for submission. Submissions received after the designated date and time should be rejected, noted in the bid opening report by the procurement committee for the record purpose.

6.5. Opening and recording of Submission

The opening of submissions must be handled transparently in order to ensure that only valid submissions are evaluated and that all suppliers are treated in a fair and non-discriminatory manner. Submissions shall be date stamped and opened immediately after the deadline for submission or shortly thereafter. It is recommended that the address for submission and the one for opening of offers are the same or at least close to each other. The bid opening should be undertaken latest by close of business (COB) the next working day and where not possible, the procurement committee responsible for the solicitation process must prepare a note to file highlighting the reason for such delay, assessing any possible impact to the process, and have this reviewed & signed by the chairman of procurement committee. Until submissions are opened, they must be kept in a secure and locked location by the individual in charge of bid receipt and shall be handled in a confidential manner.

6.6. Opening of Bids (NIT/ITB)

All bids received in response to an NIT/ITB must be opened by a procurement committee in the presence of vendors or their authorized agents on a notified date, time and place in a formal bid opening meeting. Procurement committee is bound to record the proceedings of the bid opening meeting share it with all participating bidders immediately after. Late offers and incomplete offers must be sorted out at this stage and dealt with accordingly.

Who have submitted bids may attend the public bid opening; however, the bidders may authorize a local agent to represent them. In order to be able to attend bid opening, agents representing bidders must provide reasonable evidence (business cards, letter of authorization, etc.) confirming the name of the bidder(s) they represent.

Regardless of whether or not the bid opening is public, a bid-opening report, available to all bidders that have submitted bids, should record the following information for each of the received bids.

1. Bidder's name and country;
2. Bid security, if requested;
3. Total bid price and break-up if tender compromises of several lots;
4. Discounts, if any proposed by the bidder;
5. Comments on incomplete bids or other matters observed by the bid opening panel;
6. Place, date and time of the opening;

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7. Names and signatures of the procurement committee attending the bid opening meeting;
8. Names and signatures of suppliers present or represented;
9. Names of any representatives of the other line departments or independent agency like transparency international etc. assisting procurement committee in the procurement process;
10. Alternative bids, if submitted in compliance with the ITB, shall be recorded in the same manner as a normal bid.

The bid-opening report must be signed by each member of the procurement committee and kept on file for future reference. The report shall be available for viewing by bidders who submitted bids and may be made available to them, if the bidder requests a copy. Disclosure of information to bidders is restricted to only the information contained in the bid opening report.

6.7. Opening of Proposal (RFP)

In an RFP, technical proposals are opened as a first step, while the financial proposals are kept sealed by the individual in charge of receiving bids. A separate opening of the financial proposals (preferably by the same bid opening panel that opened the technical proposals) shall be conducted after the completion of the technical evaluation.

The opening of technical proposals is recorded in a report containing the following information:

1. Offeror's name and address;
2. Proposal security, if requested/permissible;
3. Comments on incomplete proposals or other matters observed by the procurement committee during bid opening meeting;
4. Place, date and time of the opening;
5. Names and signatures of the procurement committee;
6. Names and signatures of suppliers present or represented;
7. Names of any representatives of line departments or other independent agencies like transparency International assisting during the procurement process;
8. Alternative proposals, if submitted in compliance with the RFP, shall be recorded in the same manner as a normal proposal.

The technical proposal opening report must be signed by each member of the bid opening panel and kept on file for future reference. The report shall be available for viewing by bidders who submitted offers, on request.

The financial proposals corresponding to those technical proposals meeting or exceeding the set threshold are opened in a separate opening session. The financial proposal opening report must be signed by each member of the procurement committee and kept on file and include the following information:

1. Offeror's name and address;

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2. Total bid price and break-up if tender compromises of several lots;
3. Discounts, if any proposed by the offeror;
4. Comments on incomplete proposals or other matters observed by the procurement committee during bid opening meeting;
5. Place, date and time of the opening;
6. Names and signatures of the procurement committee;
7. Names and signatures of suppliers present or represented;
8. Names of any representatives of line departments or other independent agencies like transparency International assisting during the procurement process;
9. Alternative proposals, if submitted in compliance with the RFP, shall be recorded in the same manner as a normal proposal.

Once the contract has been awarded, the proposal opening reports shall be available for viewing by bidders who submitted bids and may be provided with a copy, if the bidder requests. Furthermore, the proposal opening reports will be available only after contract award and will only list prices of the technically compliant offers.

6.8. Rejection of Submission

Bidding documents usually provide that procuring entity may reject all bids. Rejection of all bids is justified when there is lack of effective competition, or bids are not substantially responsive or when bid prices are substantially higher than existing budget. Lack of competition shall not be determined solely on the basis of the number of bidders. Even when only one bid is submitted, the bidding process may be considered valid, if the bid was satisfactorily advertised and prices are reasonable in comparison to market values. Procurement committee may, after head of procuring entity prior approval, reject all bids. If all bids are rejected, the procurement committee shall review the causes justifying the rejection and consider making revisions to the conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids. If the rejection of all bids is due to lack of competition, wider advertising shall be considered. If the rejection is due to most or all of the bids being nonresponsive, revision to the specification and/or conditions may be made. Where all bid prices substantially exceed the cost estimates, the procurement committee may consider, modification of the scope of the contract.

Only the procurement committee is authorized to reject non-responsive or invalid submissions. Late submissions and modifications that are not considered must be held unopened, unless opened for identification, until after award and then retained with other unsuccessful submissions.

	Checklist item	Y/N/NA	Date checked	Comments
1	Are tenders received in a locked tender box/secure place?			
2	Are the tenders opened only after the closing time?			
3	Are the tenders opened in accordance with the			

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	procedures specified in the tender documents?			
4	Are the tender details recorded on a Tender Opening Summary Sheet?			
5	Were the receipts issued for tenders?			
6	Are the original tenders and summary sheet kept securely?			
7	Return late tenders unopened to the tenderer and record their existence and time of arrival.			
8	Arrange for the opening of tenders to take place in the presence of at least two officials of the contracting authority who would sign each tender paper mentioning the date as well.			
9	Ensure that a clear and formal independently vouched report of the tenders received is produced.			

7. Evaluation of Submission

Evaluation is one the most significant step in solicitation procedure as at this stage, all the spade work done in the initial steps is put to test to get the most desirable results. During evaluation all the submissions received are assessed and compared with each other in accordance with the evaluation criteria and methodology stated in the solicitation documents. The purpose of the whole process is to find out the best offer made with respect to evaluation criteria and the one which represents the best value for the procuring entity. An objective, fair and well-executed evaluation process is critical as it results in a recommendation and a request for award of contract.

Procuring Committee either do the evaluation itself or designate technical team within the procurement committee and can have the assistance of technical hand from other line departments to evaluate all offers based on the principle of fair competitive deal which can give best value for money i.e. the most desirable combination of technical and financial factors. The most promising factors considered during evaluation may include the price, life-cycle costs and transaction costs of acquiring, using, holding, maintaining and disposing of the Goods or Services if so specified in the tender documents. Other than that, fitness for purpose, quality, service, after sale support, and social cum environmental aspects could be valid concerns of procurement committee.

It is pertinent to mention that procurement committee must evaluate eligible submissions according to the evaluation criteria and method provided in the solicitation document and under no circumstances revise it or revert to some new evaluation criteria or method during the evaluation process. Broadly speaking, evaluation can be break down into following few steps:

1. Preliminary screening;

Key Evaluation Principles:

Transparency: The evaluation procedure, criteria and their relevant significance... all such data and information should be made fully known to the bidders through SBD,

Non-discrimination: The choice of evaluation criteria should not in any way, whether direct or indirect, result in discrimination... offer given to all interested parties and opportunity provided to them to demonstrate their capability to meet the evaluation criteria,

Proportionality: The evaluation criteria to be chosen and above all the minimum level of capabilities to be set for a particular contract should be in direct proportion to its scale, difficulty, complexity and importance.

Qualitative selection criteria should not be used as award criteria. In the light of context they provide in evaluation criteria, both serve different purpose and also differ in nature so they should not be confused with each other. So the operators should avoid using the qualitative selection criteria as the individual criteria for awarding the contract to the bidder who has submitted the most advantageous tender.

2. Technical evaluation;
3. For RFPs: completion of technical evaluation report and opening of financial proposals;
4. Financial evaluation, including justification of reasonableness of price (if applicable);
5. Clarifications, if required;
6. Negotiations, if applicable;
7. Finalization of evaluation report;
8. Background checks, if applicable.

As Evaluations of submission is very sensitive assignment with great responsibilities; therefore, unusual delays may occur, sometimes, in finalization of evaluation results. For all such occurrences, it must be kept in mind that evaluation need to be completed before the validity of offer expires as contracts can only be given if offer is valid. To be extra cautious, time spent in getting approval from the competent authority and issuing of contract must also be taken into account during evaluation process. In the event that these conditions are unlikely to be met, bidders can be requested to extend the validity of their bid or proposal. Written notification must be issued to all bidders.

7.1. Composition of Procurement Committee

Procurement Committee is a dedicated team notified for carrying out specific procurement at certain point of time and culminates its work by giving best possible offer in terms of value for money to the head of entity for raising purchase order (contracting). During evaluation, the procurement committee verifies that vendors and their offers satisfy the requirements of solicitation document and evaluates potential offers according to predefined evaluation criteria. Ideally procurement committee must comprise of 2-5 Core members keeping in view the nature, complexity and financial worth of procurement and to keep the evaluation of submitted offers fair, unbiased, objective and transparent. Procurement Committee must have fair composition from all the relevant sections to ensure that pre-requisite expertise required for the procurement is available in house. The procurement committee members with diverse background shall be appointed in writing by the

Specifications must take into account the following:

Estimated indicative budget,

Strategic importance of Procurement,

Risk involved and possible transfer of risk,

Complexity and innovation required,

Availability of external standards, and

Potential life of contract

If Specifications go wrong then following can result:

Suitable bidder is precluded from bidding,

Requirements are wrongly or variously interpreted,

Tender submissions are unsatisfactory,

Difficulty in evaluating bids,

Unsuitable goods and services are offered / supplied,

Best value for money is not achieved

Considerable costs and losses incurred,

Adverse publicity or a poor public image created, and

Delay in or non-delivery of projects

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Competent Authority to provide objective and independent advice based on their knowledge of the specific subject matter. As a matter of fact, someone with sound financial knowledge must also be the part of Procurement committee to support other members during financial evaluation.

An experienced and senior officer of the procuring entity, appointed by the Competent Authority, must chair the Procurement Committee. Whoever appointed as chairman of procurement committee must have sound experience of procurement, relevant knowledge of items to be procured, pre-requisite interpersonal communication skills and good command on the prevalent procurement rules and procedures.

Sometimes, evaluation becomes very subjective and every member of procurement committee defines submission according to their own understanding. However, procurement committee is always a collegial body and tries hard to achieve consensus at the end in their final decision. Where a consensus cannot be achieved despite all efforts, a simple majority vote may be called by the chairperson to settle an issue or disagreement. Should the votes be equally divided, the chairperson shall have the casting vote. Once a final decision is achieved, the members shall uphold the final decision achieved by the committee.

In huge and complex procurement processes (e.g. complex specifications, high bid values, complex post-qualification criteria, etc.), procuring entity compels to engage experts from the specialized department during evaluation by either notifying them as members of the procurement committee or members of the sub-committees formed for evaluation, inspection or monitoring and the like. In addition to that, Procurement Committee can invite representations from investigating agencies or watchdogs like Transparency International, National Accountability Bureau etc as observers to ensure transparency in the process.

Members of procurement committee and observers must immediately indicate if they are in a potential conflict of interest situation with any of the suppliers like owning shares in Supplier Company or having family relationship with suppliers, etc, in which case they shall ask to be replaced. One of the good practices can be to ask all the members of the Procurement Committee and observers to sign an affidavit of confidentiality and no conflict of interest prior to commencing of the evaluation process.

Head of procuring entity is mainly accountable to perform following activities during evaluation:

1. Facilitate the procurement committee during evaluation process and try to resolve issues and disagreements among members of the procurement committee through building consensus;
2. Ensure that Procurement Committee is fully sensitized to keep the proceedings of procurement confidential, objective, unbiased and professional. In particular, access to offers submitted should be restricted to the procurement committee and observers only during evaluation process and sharing all the correspondence made

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with bidders on various issues across the board while keeping its confidentiality intact, wherever applicable

Recommendations from procurement committee during evaluation process have significant impact on the final decision; therefore, they must be made bound to certain code of conduct like:

1. Confidentiality and no conflict of Interest must be ensured through obtaining signatures on affidavits from the members of procuring entity;
2. Making sure that each of member of the procurement committee has the same level of clarity with regards to their roles and responsibilities during evaluation especially evaluation criteria & methodology adopted in the solicitation document;
3. Preparing comparative statements and reports thereon in the light of evaluation criteria;
4. Respond to all queries of the bidders on the criteria designed for the evaluation and the scoring mechanism, if required;

7.2. Evaluation Criteria

As explained earlier in detail, evaluation criteria are divided in three broad categories and these are evaluated during evaluation process in the following order:

1. Formal and eligibility criteria (assessed during preliminary screening);
2. Qualification and technical criteria (assessed during technical evaluation);
3. Financial criteria (see 6.5.3.3 Financial criteria) (assessed during financial evaluation);

7.2.1. Preliminary Screening

Preliminary screening is required to screen out invalid offers from the eligible offers at the first place to avoid wastage of time and resources of procurement committee at the lateral stage. All those offers which have material from the pre-determined evaluation criteria as communicated through solicitation document are deemed invalid and kept out of competition for all practical purposes. Offers which are terminated at the early stage in preliminary screening must be approved and documented by procurement committee to avoid litigation and Audit objections and filed for future reference.

Some of the examples of material deviations and other factors leading to ineligibility could be as follows:

1. Offer submitted substantially affect the scope, quality, or performance of the Goods or Services as specified in the Contract;
2. Offer given is in such form that it contradicts or limits the rights of procuring entity and obligations of bidders in a substantial way;
3. Offer is incomplete or had errors which if rectified would unfairly affect the competitive position of the other bidders who had submitted substantially responsive bids;

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4. Failure to provide missing information which is of significant nature and for which sufficient opportunity is given to the bidder;
5. The bidder has a conflict of interest or was blacklisted due to involvement in proscribed activities or due to persistence deficiencies in performance leading to pre-mature termination of contract;
6. Law of land does not allow bidder to participate in the bidding process like absence of requisite licenses or registrations with relevant authorities;
7. Absence of required bid/proposal security when applicable, or if it has been provided it is not compliant in terms of amount or validity period. Bid security if proven fake after consulting issuing bank then matter may be immediately reported to head of procuring entity for taking up with relevant authorities;
8. Absence of bid or proposal submission form or lack of signature of the bid form when this is clearly specified in the tender document as a requirement. A duly authorized signatory must sign the supplier's offer in order for it to be legally binding. However, such missing signatures can be acquired from the authorized person on time to make the offer eligible;
9. Absence of non-historical documents (explained in detail earlier) as required in the solicitation documents;
10. Financial information is not included in the technical proposal envelope in case of Single-stage two-envelope procurement method;

7.2.2. Technical evaluation

Once found compliant with the formal and eligibility criteria during preliminary screening, successful offers will go through technical evaluation which mainly consists of evaluation of qualification criteria and evaluation of technical criteria subsequently.

a) Evaluation of qualification criteria:

During this evaluation, it is ensured that the participating bidders had all the requisite legal and regulatory rights to enter into the contract with the procuring entity. Other than that, it is also ascertained at this stage that bidders must have the required minimum technical capability and experience and is also financially capable to successfully execute the contract. Qualification criteria, when included in a solicitation document are evaluated on a pass/fail basis, regardless of the fact that they are part of RFQ, ITB or RFP floated in the newspaper.

b) Technical evaluation of bids:

Technical evaluation of the bid is also assessed on pass/fail basis and bid under evaluation must be rejected if it contains material deviations from the technical criteria specified in the solicitation document like specification, TORs or SOWs and/or other requirements. Definition of material deviations during evaluation of bid must be handled in a professional way but roughly speaking it occurs when the specifications of the item quoted vary in one or more significant aspects from the minimum required technical specifications and other requirements.

c) Technical evaluation of proposals

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Proposals received in response to an RFP must be rated by assigning points against the technical criteria as per maximum points assigned per criterion specified in the solicitation document. The procurement committee shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, sub-criteria, and point system specified in the Data Sheet. Each responsive Proposal will be given a technical score and a proposal shall be rejected if the bid does not obtain the minimum required number of points to qualify as per threshold stated in the solicitation document (generally 60% or 70%). The corresponding financial proposal shall be retained unopened in the procurement file. However, any bid security or guarantee must be returned. The procurement official in charge of the solicitation exercise must ensure that the bid security contained in any unsuccessful submission be returned to the bidder promptly following contract award to the selected bidder.

It is pertinent to mention that from the time the Proposals are opened to the time the Contract is awarded, the vendor should not contact the procuring entity on any matter related to its Technical and/or Financial Proposal. Any effort by offeror to influence the Procuring entity in the examination, evaluation, ranking of Proposals, and recommendation for award of Contract may result in the rejection of the bidders' Proposal. Similarly, Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.

In the case of Quality-Based Selection, Selection Based on Consultant's Qualifications, and Single-Source Selection, the highest ranked consultant or firm selected on a single-source basis is invited to negotiate its proposal and the contract on the basis of the Technical Proposal and the Financial Proposal submitted.

7.2.3. Financial Evaluation

Submissions found substantially compliant with the qualification and technical criteria will eventually go through financial evaluation. After the technical evaluation is completed, the Procuring entity shall notify in writing vendors that they have secured the Minimum qualifying marks, the date, time and location, allowing a reasonable time, for opening the Financial Proposals. Financial proposals of those consultants who failed to secure minimum qualifying marks shall be returned unopened. Financial evaluation is the process of comparing the offers with the financial criteria stipulated in the solicitation document and preparing a price-wise comparative statement of qualified bids to find the lowest most substantially compliant bid. Primarily, price is taken as the key financial evaluation criterion during financial evaluation but the weight of the price depends on the evaluation methodology selected and financial criteria stated in the solicitation documented. All taxes and duties are inclusive of offers and if some bids did not mention these details in the bid then they must be added in the bid before financial evaluation.

One of the important factors in the financial evaluation is to remove all arithmetic errors from the bids and if even after that, errors still exist then evaluation to be done in following order:

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1. If there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total shall be corrected... however, if there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;
2. If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected;
3. If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to above two conditions.
4. After price correction has been completed, discounts, when applicable, must be evaluated and currency conversion into one base currency (as specified in the solicitation document) must also be completed.
5. If the vendor offers early order/placement, or early payment discounts, this is not measured in the evaluation unless clearly stated in the solicitation document. Discounts can be utilized if offered although the vendor must be selected based on the regular price without considering discounts. At the time of placing the order, any available order placement discounts should then be considered.

During financial evaluation, a deviation would be considered material in any of the following situations:

- a) The bidder does not accept the required price correction as per the condition of the solicitation document;
- b) Required price components are missing;
- c) The bidder offers less quantity than is required.

Procurement is a tricky business and each method of evaluation deserves separate treatment; for example:

- a. In the case of Quality-Based Selection, selection based on Consultant's Qualifications, and Single-Source Selection, the highest ranked consultant or firm selected on a single-source basis is invited to negotiate its proposal and the contract on the basis of the Technical Proposal and the Financial Proposal submitted.
- b. In case of Least Cost Selection (LCS) Method, the bid found to be the lowest evaluated bid shall be accepted.
- c. In case of Quality and Cost Based Selection (QCBS) Method the lowest evaluated Financial Proposal (Fm) will be given the maximum financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Proposals will be computed as indicated in the Data Sheet. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) indicated in the Data Sheet: $S = St \times T\% + Sf \times P\%$. The firm achieving the highest combined technical and financial score will be invited for negotiations;

- d. In the case of Fixed-Budget and Quality Based Selection, the Procuring Entity will select the firm that submitted the highest ranked Technical Proposal.

7.2.4. Dealing with Abnormally low Bidding:

This is an area which causes some difficulties for Procuring entities. Before the procurement committee decides to reject what it considers to be an “abnormally low tender”, it first needs to define what it considers to be an “abnormally low tender” for intended offer. The procurement committee should first need to seek clarification from the bidder that why its offer is so low and whether that there certain circumstances exist which could reasonably explain this low offer like innovative technical solutions or particular circumstances allowing it to obtain supplies at favorable conditions. After acquiring written justification from the bidder and doing its proper analysis, only then evaluation committee should decide if the tender should be rejected or accepted. It is mandatory for the procurement committee to ask for justification in written of the abnormally low offer in any case and not only when the offer is rejected. Primarily this should be addressed at the procurement planning stage. It can be avoided by careful pre-procurement planning, including setting benchmark prices. Any abnormally low tender may highlight a fault in the specification or may implicate a possibly incorrect determination of the estimated total value of the contract. It could be the case that the tenderer has misunderstood the specifications or that the specifications have been badly drafted (and therefore are open to exploitation once the contract has been signed).

7.2.5. Justification of reasonableness of the price

Procuring entity tries it level best to determine that prices offered are fair and reasonable before awarding contract to the winning bidders. Other than various factors chalked out in financial evaluation criteria, some other comparators are also utilized to reach to the desirable conclusion:

1. Comparison with market price (i.e. prices offered by other suppliers of the same or similar product or service);
2. Comparison with the prices offered in valid and existing same nature contracts;
3. Historical price, i.e. compare the current price to a price paid in the recent past for the same or a similar product;
4. Whether the offer is similar to that for another comparable customer;
5. If the offer is custom-built, whether the cost breakdown of the offer shows that the price is fair and reasonable.

If, after price/cost analysis, the evaluation team does not consider the price to be fair and reasonable, the procurement committee will seek clarification from the offering bidder. In case of non-satisfactory reply, the procuring entity had the right to re-tender with broader TORs and clarified specifications to invite wider competition.

7.3. Evaluation methodology

Whatever the procurement method adopted; like single stage – single envelope, single stage – two envelope or two stage – two envelope, evaluation methodology would be following three in number depending upon the solicitation method selected:

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Solicitation method	Evaluation methodology
1. Shopping or RFQ (informal methods)	1. Lowest priced and most technically acceptable
2. ITB (formal method)	2. Lowest priced and technically compliant
3. RFP (formal method)	3. Cumulative analysis

7.3.1. Lowest Priced and most technically acceptable offer

As explained above, this method of evaluation would only be used for the common and simple items of procurement and only when the cost of procurement is less than Rs. 100,000. This method of evaluation is specific for shopping and RFQ only.

This is flexible approach of selecting vendors for procurement of a relatively low value (less than Rs. 100,000) but still, following considerations have to be taken into account during the procurement process.

1. Preliminary screening of quotations, including an assessment of whether quotations comply with the formal and eligibility criteria stated in the solicitation document;
2. Technical evaluation of quotations, determining which quotations are substantially compliant to the qualification criteria (if included in the solicitation document) and technical criteria;
3. Financial evaluation: Quotations that are found to be technically compliant shall be evaluated based on the lowest price. However, in case of tie, contract would be awarded to that vendor who offers better technical specifications; and
4. The selection of a supplier other than the one offering the lowest priced option requires proper justification: this must be documented on file and reasons for not choosing the lowest pricing option must be included in the request for award signed by the competent authority.

7.3.2. Lowest priced and technically compliant offer

For procurement on large scale, technical compliance with the specification/TORs/SOW is inevitable and thereafter comes the criterion of pricing upon which bidders are evaluated for finalizing the winner of the bid. In case bids received are not technically compliant then procuring entity will perform re-bidding with further explanation of evaluation criteria. Once bids received qualify as technical complaint then price serves as the overriding evaluation criteria upon which the contract is awarded. The lowest priced, substantially compliant offer methodology consists of the following steps:

1. Preliminary screening of bids, including an assessment of whether bids comply with the formal and eligibility criteria stated in the solicitation document. All bids substantially compliant at this stage will go through subsequent evaluation as follows;
2. Technical evaluation of bids, determining which bids are substantially compliant to the qualification criteria (if included in the solicitation document) and technical criteria, and rejecting non-compliant offers. Only bids meeting or exceeding the criteria shall be considered substantially compliant;

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3. Financial evaluation of bids, by selecting for award the lowest priced bid among the substantially compliant bids, as per financial criteria stated in the solicitation document.

7.3.3. Cumulative analysis

When using the cumulative analysis evaluation methodology as in the case of RFP, the score of the financial proposal is calculated based on the formula fixed for point allocation in the solicitation document. This method of evaluation is specific for complex nature procurements and in majority of cases applied on Services and Works contracts. This method is meant to ensure best value for money and evaluation is based on the number of criteria other than price. The combined analysis methodology consists of the following steps:

1. Preliminary screening of proposals, including an assessment of whether proposals comply with the formal and eligibility criteria stated in the solicitation documents. All proposals substantially compliant at this stage will go through subsequent evaluation as follows;
2. Technical evaluation (qualification criteria), determining which proposals are substantially compliant to the qualification criteria (if included in the solicitation document), and rejecting non-compliant proposals. Only proposals meeting or exceeding the qualification criteria shall be considered substantially compliant;
3. Technical evaluation (technical criteria), determining the technical points achieved by each proposal, as per maximum points assigned per criterion included in the solicitation document. Only proposals that meet the minimum technical threshold indicated in the solicitation document (normally 60% or 70%) shall be deemed substantially compliant;
4. Financial evaluation. Financial Proposals will only be opened for the bidders that achieve the minimum technical threshold. Proposals scoring above threshold shall be checked for any arithmetic errors. The maximum number of points for the Financial Proposals would be as per weightage given to it in the evaluation formula (like 70-30, 80-20) as is stated in the solicitation document. Maximum number of points will be awarded to the lowest financial bidder, while the rest of the bidders will be allocated number of points in proportionate to it. Formula is simple:

$$\text{Points for the Financial Proposal being evaluated} = \frac{(\text{Max points of Financial Proposal}) \times (\text{lowest price})}{(\text{Price of proposal being evaluated})}$$

Example: Formula used for financial evaluation is 70%-30% and bidder A offered Rs. 10 while bidder B offered Rs. 20. Points scored by both bidders A & B will be as follows:

$$\text{Financial points for Bidder A} = \frac{(30) \times (10)}{(10)} = 30 \text{ points}$$

$$\text{Financial points for Bidder B} = \frac{(30) \times (10)}{(20)} = 15 \text{ points}$$

5. Combined analysis. The proposal obtaining the overall highest score after adding the score of the technical and the financial proposals is the one that offers best value for money and is to be recommended for award.

7.4. Further aspects of evaluation

7.4.1. Deviations

1. Material Deviations:

For any procurement practitioner, it is vital to define materiality for deviations before rejecting, otherwise, substantially compliant offer to ensure maintenance of fairness and transparency. It is; therefore, important to achieve value for money by not disqualifying offers solely for non-material (minor) deviations: Material deviations could be as follows:

1. Offer submitted substantially affect the scope, quality, or performance of the Goods or Services as specified in the Contract;
2. Offer given is in such form that it contradicts or limits the rights of procuring entity and obligations of bidders in a substantial way;
3. Offer is incomplete or had errors which if rectified would unfairly affect the competitive position of the other bidders who had submitted substantially responsive bids;
4. Failure to provide missing information which is of significant nature and for which sufficient opportunity is given to the bidder;

When the procuring entity decides to procure any item according to the requirement received from line departments or sub-ordinate offices, head of procuring entity and designated procurement committee has to acquire clear understanding during developing definition of requirement of what could represent a material deviation. All such deviations must be identified on consistent basis and recorded in the evaluation report during evaluation process.

2. Minor irregularities in the Offer:

A minor informality or irregularity is one that is merely a matter of form and not of substance. During

Common Mistakes:

Typical areas of mistakes because of weak Technical Specifications are as follows:

Significant areas of work are missed out of the specification, only to be added at a later stage, leading to confusion or unfair competition,

An insufficient response from the market or abnormally low prices (or wildly varying tender prices) due to poor specifications,

Alleged extreme urgency brought about by 'unforeseeable' events, although resulted in reality due to an unrealistic timetable and/or poor planning,

Breaches of equal treatment, non-discrimination and transparency requirements (particularly the specifying of named products or restrictive specifications),

Unlawful, incorrect or inadequate evaluation criteria for selection and award of contract, and

Specifications not containing a tender and project timetable or selection and award criteria

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procurement process, bidders go through many documents, consultative sessions, amendments to solicitation document and variations in the requirements which may result in some omissions or defects in the bid or variation of a bid from requirement but they could only be called immaterial if their correction or waiving off make little impact on the overall competitive process. In such cases, the defect or variation is immaterial when the effect on price, quality, or delivery is negligible when contrasted with the total cost or scope of the goods, services or works being acquired. The procurement committee shall either waive or give the bidder an opportunity to correct any deficiency resulting from a minor informality or irregularity in a bid but while doing this, larger interest of the department must be kept in mind:

Examples of minor informalities or irregularities include failure of a bidder to:

1. Return the number of copies of signed bids required by the solicitation documents;
2. Furnish required information concerning the number of its employees;
3. Left over signs in the bid form as a result of omission however, overall consent to the submitted offer is explicitly given;
4. Acknowledge receipt of an amendment to an invitation for bids, but only if:
 - a. The bid received clearly indicates that the bidder received the amendment, such as where the amendment added another item to the invitation and the bidder submitted a bid on the item;
 - b. The amendment involves only a matter of form or has either no effect or merely a negligible effect on price, quantity, quality, or delivery of the item bid upon.

3. Clerical mistakes:

After the opening of bids, the procurement committee shall examine all bids for mistakes and may correct any apparent clerical mistake before award. However, obtaining verification of the intended bid from the bidder is necessary before proceeding further.

Examples of apparent mistakes include:

1. Obvious errors in totaling price: The unit prices will prevail, when errors in totaling have been made;
2. Obvious discrepancy between the amounts in figures and in words, the amount in words will prevail;
3. Obvious misplacement of a decimal point;
4. Obviously incorrect discounts (e.g. 1 percent, 10 days; 2 percent, 20 days; 5 percent, 30 days);
5. Obvious mistake in designation of unit.

If the procurement committee finds out mistake in the offer and bidder also confirms that the subject mistake has been made then correction to the bid shall be affected by attaching the bidder's verification to the original bid and a copy of verification to the duplicate &

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corrected bid before final evaluation and award take place. Such corrections must not be made on the face of the bid but must be reflected in the award document.

4. Apparent errors in the price:

All kind of revisions in the prices during evaluation is prohibited. Any violation to this rule will directly result in rejection of bid. If the supplier confirms that the price mentioned in the bid is correct only then the evaluation can proceed. If the price is incorrect, the offer must be rejected in order to adhere to the principle of fair and equal treatment of all suppliers. The communication with the supplier must be in writing and kept on file for the record in order to facilitate audits.

5. Abnormally low bids:

An abnormally low bid/proposal is one where the bid/proposal price in relation to the scope, methodology, technical solution and requirements, appears so unreasonably low that it raises concerns to the procurement committee in regards to the bidder's ability to perform the contract successfully. If and when an abnormally low bid/proposal is identified, the procurement official shall seek written clarifications from the bidder, including detailed price analysis for its bid/proposal prices in correlation with the scope, proposed methodology, schedule, and allocation of risks and responsibilities.

After the evaluation of the information and detailed price analyses presented by the bidder, the procurement committee may:

1. Accept the bid/proposal;
2. If appropriate, require that the amount of the performance security be increased at the expense of the bidder to a level sufficient to protect department against financial loss in the event of default of the successful bidder under the contract; or
3. Reject the bid/proposal.

7.4.2. Clarification from the Bidders

For all practical purposes, submissions will be evaluated in the light of information provided in the offer; however, during preliminary screening, technical and financial evaluations, certain clarifications are required in order to perform proper scrutiny of offers submitted. The purpose of such clarifications is to clarify any aspects of the offer, and not to add or delete aspects of the offer, or otherwise modify any portions of the offer. Only procurement committee or its designated officer is authorized to seek clarification from the vendors during evaluation. All such efforts are made to remove minor irregularities, informalities or apparent clerical mistakes in the bids. As discussed above, no information about the offer of other potential suppliers can be divulged to the bidder seeking clarifications. All clarifications should be communicated to vendor itself as the bidder's representative can forward the query to the competitor. He can be informed of the fact that response to the query is sent back but the content of query must not be shared with the bidder's representative.

When bidders are requested to submit clarifications or missing historical information or documents, it is important to give a reasonable deadline. Once the deadline has passed

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without satisfactory response, the procurement committee must reject the bid. All correspondence with vendors will be in writing (email is acceptable) and must form part of the procurement record.

7.4.3. Potential proscribed practices

Any agency indulgence in procurement is for the sole purpose of profit earning except for few which work purely on humanitarian grounds with zero profit. It is, therefore, the responsibility of procurement committee to make sure that there is no cartel formation to earn disproportionate profits through fraud, collusion or any other suspicious activity it could be in any form like rigging, fraud or price fixing to manipulate the evaluation process. The following are typical red flags indicating risks of potential proscribed practices.

Typical patterns of potential fraud:

1. Bid/proposal securities submitted show apparent irregularities (not on appropriate valued stamp papers, mismatch of dates, non-verification of issuing bank, varying pattern of logos or names);
2. Fake registrations or exemption certificates or inconsistencies in registration certificate (like mismatch dates, varying names of registered firm with different institutions and /or frequent pattern of changing company's name);
3. Quality certificates are issued by dubious providers;
4. Tax exemptions certificate is produced which provide the bidder a substantial edge in pricing over the other potential bidders;
5. Bank account information provided on the supplier form is under the name of an individual and not a company.

Patterns of collusion are hard to detect because agreements are secret in nature. These may include bid-rigging (competitors agree in advance who will submit the winning bid), and price-fixing (agreement by competitors to raise, fix or maintain the price for goods or services) as detailed below.

Patterns of potential bid-rigging:

1. The same suppliers submit bids and each company seems to take a turn being the successful bidder;
2. Some bids are much higher than published price lists, previous bids by the same firms, or cost estimates;
3. A company appears to be bidding substantially higher on some bids than on other bids, with no apparent cost differences to account for the disparity;
4. Bid prices drop whenever a new or infrequent bidder submits a bid;
5. A successful bidder subcontracts work to competitors that submitted unsuccessful bids for the same project;
6. A company withdraws its successful bid and let the second bidders take the contract with much higher cost;

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7. Schedules are split between bidders; i.e. one bidder is lowest for schedule one, the other for schedule two, etc.; or one bidder quoted for schedule one only, another bidder for schedule two only, etc.;
8. Bank guarantees submitted by different bidders have been issued by the same bank and have almost identical reference numbers: e.g. A-123 and A-124;
9. Details regarding ownership and management in respect of several bidders show that these bidders have the same key personnel such as directors, partners, owners, etc.
10. Specs are skewed to favor one company who brings forward two or three suppliers with identical specs but with little difference of price to make bid look genuine; though, items are available only with one supplier who is working at the back hand;

Patterns of potential price-fixing:

1. Identical prices of multiple bidders, especially when prices stay identical for long periods of time and prices were previously different;
2. Price increases do not appear to be supported by increased costs;
3. Discounts are eliminated, especially in a market where discounts historically were given;
4. The proposals or bid forms submitted by different bidders contain irregularities (such as identical calculations or spelling errors), similar handwriting or stationery. This may indicate that the designated low bidder may have prepared part or all of the losing bidder's offer;
5. Bid or price documents contain white-outs or other physical alterations indicating last-minute price changes;

Procurement committee is duty bound to remain vigilant during the evaluation process and report any identified or anticipated incidence of proscribed practices in the procurement to the competent authority. In case of established misconduct, matter may be immediately reported to KP-PPR Authority for appropriate action against the vendor and if there is indication of a potential proscribed practice but cannot be established due to non-availability of evidence then competent authority can exercise the option of re-bidding. Procurement committee has to record reason for the rejection of bids in the procurement report for Audit consumption or if Court of Law seeks explanation for such action on the complaint of participating vendor.

7.5. Negotiation

Negotiations are discussions with a potential vendor after selection but prior to award of contract, with the purpose of ensuring better understanding of scope of work and other relevant terms of references without compromising the principle of fair and equal treatment of all vendors.

The purpose of negotiations is to ensure that the technical offer is in line with the requirements and that the financial proposal is competitive on all aspects of the price. In the negotiations, any deficiency in the offer must be brought to the attention of the supplier. The supplier must be allowed to make corrections in the proposal in order to more clearly

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specify the contents of the offer. However, under no circumstances shall the requirements (specifications/TOR/SOW) be changed. If the requirements are materially changed, the competitive process must be cancelled and a new solicitation process must be initiated on the basis of the revised requirements.

Proper justification must be provided to explain the reason for occurrence of negotiations and it must be kept in mind that under no circumstances negotiation can take place for the sole purpose of reducing prices, as this would be against the principle of equal and fair treatment to all suppliers. The bidders must be directed to give their final and best offer as no negotiations are expected at the post bid stage.

7.5.1. Negotiation with Consultants

Negotiations will be held at the date and address indicated in the Data Sheet. The invited Consultant will, as a pre-requisite for attendance at the negotiations, confirm availability of all Professional staff. Failure in satisfying such requirements may result in the PE proceeding to negotiate with the next-ranked Consultant. Representatives conducting negotiations on behalf of the Consultant must have written authority to negotiate and conclude a Contract.

Technical Negotiations will include a discussion of the Technical Proposal, the proposed technical approach and methodology, work plan, organization and staffing, and any suggestions made by the Consultant to improve the Terms of Reference. The PE and the Consultants will finalize the Terms of Reference, staffing schedule, work schedule, logistics, and reporting. These documents will then be incorporated in the Contract as “Description of Services”. Minutes of negotiations, which will be signed by the PE and the Consultant, will become Part of Contract Agreement.

If applicable, it is the responsibility of the Consultant, before starting financial negotiations, to contact the local tax authorities to determine the tax amount to be paid by the Consultant under the Contract. The financial negotiations will include a clarification (if any) of the firm’s tax liability, and the manner in which it will be reflected in the Contract; and will reflect the agreed technical modifications in the cost of the services.

7.6. Evaluation Report

Procurement committee has to prepare an evaluation report and document its findings with recommendations for submission to the competent forum. Evaluations are to be done on the prescribed formats/tables as communicated in the solicitation documents as per set evaluation criteria. Documentation of evaluation report is mandatory for all kind of formal solicitation methods.

The evaluation report must be dated, identify the process to which it relates and the name of each signatory must be printed under the signature. It shall be signed by all the members of the procurement committee, and initialed on every page (except for historical annexes such as the ITB/RFP, amendments, clarification notes etc.) by the members of the procurement committee and kept on file for future reference.

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The evaluation report will later be used as the basis for the recommendation of award. An evaluation report shall contain a summary of the evaluation process as well as details of the evaluation steps performed and key criteria therein, i.e. preliminary examination, technical and financial evaluation. In particular, when the solicitation method is RFP the technical evaluation section must include a clear narrative supporting the points allocated to each technical proposal. Any rejection, non-compliance, and clarifications of offers must be clearly stated, including a list with the final ranking of the offers and the reasoning behind the selection of the winning offer.

All unsuccessful bids must be retained in the procurement file. However, any bid security or guarantee must be returned. The procurement official in charge of the solicitation exercise must ensure that the bid security contained in any unsuccessful submission be returned to the bidder promptly following contract award to the selected bidder.

Unsuccessful bidders will be notified only after the contract is awarded and all contract documents are duly executed. The evaluation report is a confidential document and must not be distributed to individuals other than those involved in the respective procurement process.

7.7. Background Checks

Procurement committee has to perform due diligence checks on the participating vendors after completion of evaluation but before issuing of award to winning bidder. Background checks are meant to verify that the participating bidders meet the criteria set forth in the solicitation document or as appropriate to the nature of procurement process, and may reject a bidder on the basis of these findings, which shall be documented. Procurement committee should document all the backgrounds check performed and results thereof for the consumption of competent authority and to confirm that all due diligent activities are performed.

Minimum background checks requirements:

- i. Verify the bidder's existence and status, through internet search, checking the company's website, or if applicable calling their declared office phone numbers;
- ii. Verify that the vendor is legally incorporated by requesting written certification or other documentary evidence from the supplier;
- iii. Ensure that the vendor is not blacklisted or declared bankrupt by any financial institution;
- iv. Check that the bidder does not have any pending claims, disputes and contentious issues.

Advanced background checks may include any/all of the following activities:

- i. Verify the authenticity of the bid/proposal security with the issuer;
- ii. Verify with the manufacturer the submitted Manufacturer's Authorization Form;
- iii. Verify other documentation provided, such as stated capacity of the vendor to produce items mentioned in the requirement;

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- iv. Verify the financial statements provided, including through: (a) check that the named auditor exists and that it has undertaken such audit; (b) check that financial statements provided in past bids are consistent to the ones provided in this tender, if applicable;
- v. Verify financial soundness of the company, including assessing its transactional history and liquidity status;
- vi. Check past supplier performance in prior departmental contracts;
- vii. Check with references provided for past work;
- viii. Conduct a site visit to the bidders premise to ensure for instance that they possess relevant equipment (e.g. construction equipment for procurement of works, or IT infrastructure for IT/software requirements. Bidders shall permit departmental nominees to access their facilities at any reasonable time to inspect the Bidder's premises, if applicable, and provide related documentation as requested;
- ix. Check litigation history.

	Checklist item	Y/N/NA	Date checked	Comments
1	Are the officers evaluating the tenders authorized to do so?			
2	For goods, works and non-consultancy services, are the evaluations performed by a panel of three or more people?			
3	For consultancy services, are the evaluations performed by a panel of five or more people?			
4	Are the tenders evaluated in accordance with the criteria set in tender document?			
5	Are all tasks, calculations, deliberations during evaluation documented?			
6	Taxes are calculated while evaluating prices or not?			
7	Was the evaluation report checked by the head of procurement committee for review?			
8	Was the evaluation report approved by the evaluation committee?			
9	Was the evaluation report approved by the Procurement Committee?			
10	Was the Negotiation Committee appointed by the Head of Procurement Committee?			
11	Were the results clearly agreed upon by both parties to the negotiations?			
12	Were the negotiations adequately recorded and signed by both parties?			
13	Have the negotiations results been approved?			
14	Are unsuccessful tenders notified accordingly?			

8. Procurement Award

8.1. Preparation of submission for review and award

In order to facilitate the review and award, documentation must be prepared summarizing the procurement process, all actions taken, and adequate justification whenever standard procedures have not been followed. It is crucial to document how each procurement activity complies with the procurement principles and applicable policies and procedures. Care must be taken to ensure that the documentation provides a complete and exact picture of the actual process.

KP-PPR Authority have developed various templates and documents in the sample SBD documents for various kind of procurements, depending upon the solicitation method and item to be procured like Goods, Works or Services. Personnel responsible for the procurement process should prepare the documentation and also assume responsibility for the accuracy of the information.

When less than three substantially compliant offers have been received for procurements using limited competition, the request for award must include the following:

1. Reasons for the lack of at least three substantially compliant offers;
2. Justification of the reasonableness of the price (through market survey, benchmarking with previous purchase prices, comparison with market prices, etc);
3. Recommendations for improving competition in future solicitation.

Recommendations for award submitted for approval to the competent authority must include following information on prescribed templates:

1. Name of the bidder(s) recommended for award;
2. Description of the goods/services/works to be purchased;
3. Contract amount for the award;
4. Justification of for the exception of formal methods of solicitation, if applicable;
5. Information about advanced payments and performance security, if applicable;
6. Confirmation of reasonableness of the price, if applicable;
7. A copy of the evaluation report;
8. Results of background checks, if applicable.

8.2. Post Facto and Retroactive approvals

The General Financial Rules (GFR) requires that services or works are not to commence, and goods are not to be ordered, until a contractual obligation between procuring entity and the vendor has been established by signature of both parties to the contract. It is, therefore, vital to understand that any post facto or retroactive arrangements with the vendor to legalize the transaction/commitment are administrative procedure and has nothing to do with the procurement procedures notified by the KP-PPR Authority. All such measures are meant to allow for review and possible ratification of actions which were not undertaken in full conformity with the prescribed policies and procedures for the award of the contract.

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1. *Post facto case*: where proper award has not taken place but services have been rendered and goods have been received and, in some cases, one or more payments have already been made to the vendor;
2. *Retroactive case*: where proper award has not taken place and the goods have been ordered or the provision of services has commenced, but the goods have not yet been delivered, nor have the services been rendered. In some cases, invoices have already been submitted.

If a post facto/retroactive situation occurs, approval of payments and/or a contract must be obtained from the competent authority as per delegation of financial powers. Any irregularity in the procurement process identified in the post facto/ retroactive review may lead to disciplinary actions in accordance with E&D Rules 1973.

There are two different set of circumstances where such situation can erupt; firstly, adequate budget is provided to the spending unit and procurement is made but due process is not followed and secondly, expenditure related to the procurement activity under review exceed the amount provided in the approved budget. In first instance, proper procedure to deal with post facto and retroactive approvals must be followed and in second case, consultation with the funding source regarding the funding issue for escalated cost is must prior to any proceeding/decision on the matter.

Line departments are advised to make every effort to avoid post-facto or retroactive approvals in all circumstances. Any incident of post-facto or retroactive approvals must not be quoted as precedents for making justifications for repetition of such actions. Procurement procedures as notified by the relevant agencies are to be followed in letter and spirit. In any untoward situation, the competent authority or any investigative agency can initiate disciplinary action for violation of procurement rules instead of according post-facto approvals.

8.3. Award of Contract

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 under the financial rules and the power of re-appropriation rules 2001, in an expeditious manner, so that the award can be notified before expiry of the bid validity period. Standard contract deed for the procurement of Goods, works and Services are available on the web-site of KP-PPR Authority and must be used for awarding of contract to the winning vendor. It is the joint responsibility of procurement committee and the head of procuring entity to complete all the codal formalities before awarding of contract

Award Criteria must include:

Compliance with contractual terms and conditions;

The technical merit of the goods or services offered;

Life-cycle costs;

The risks or constraints associated with the tender; and

Any wider social benefits to the organization (e.g. environmental considerations)

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Contracts shall be awarded within the offer validity period. If it is not possible to award the contract within the original period of offer validity, an extension of the offer validity period must be requested from all bidders. A bidder may refuse the request without forfeiting its bid/proposal security. Bidders agreeing to the request will not be permitted to modify their bids/proposals but will be required to extend the validity of their bid/proposal securities (if applicable) for the period of the extension. As such, extensions must be requested as early as possible to allow bidders sufficient time to produce a new valid bid/proposal security before the expiration of the original.

(All contract awards shall be made public through publication on KP-PPR Authority website.)

Competent authority is authorized to reject all bids or proposals at any time prior to 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. The procuring entity shall incur no liability solely due to rejecting bid or proposals towards contractors or consultants who have submitted bids or proposals; however, notice of the rejection of all proposals shall be given promptly to all contractors or consultants that submitted bids or proposals.

8.4. Grievances redressal mechanism

Any bidder aggrieved by any act of procuring entity may follow the two-tier grievance redressal mechanism in the following manner:

1. File a complaint in writing to the head of procuring entity in accordance with prescribed manner;
2. File an appeal to the authority against the decision of the procuring entity within fifteen days in accordance with prescribed manner.

It is the responsibility of Procurement Committee to inform all the participating bidders about the independent bid protest procedure in the solicitation document as well as in subsequent contracts. Procurement protest is defined in this context as any allegations made by a supplier with respect to failure of procurement committee to comply with relevant procurement procedures and uphold the basic principles and standards of integrity, transparency and fairness expected in the public procurement context.

What is Contract trying to do?

The contract is an agreement between the contracting authority and a supplier providing goods, works and/or services. It is important that whatever contract is developed it demonstrates:

The contracting authorities' intent to contract,

A clear offer from the contracting authority and a clear acceptance of the offer by the supplier,

The ability of both contracting authority and supplier to legally contract,

A price that the contracting authority agrees to pay the supplier, and

A clear agreement between contracting parties about the terms and conditions of the contract

NOTE: *It is important that those staff that will be monitoring the implementation of the contract should be involved in the development of the contract.*

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To be complete, the protest must contain the following information:

1. The protestor's name, CNIC, address, telephone number and email address;
2. Details necessary for identification of solicitation like description of assignment and NAM coding as per budget book along with the name of contracting office etc;
3. A detailed statement of all factual and legal grounds for the complaint and an explanation of how the complainant was deprived of his legal right;
4. Copies of relevant documents supporting complainant's statement;
5. All information establishing that the complainant is an interested party for the purpose of filing a protest;
6. All information establishing the timeliness of the complaint.

Any Procurement entity 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. 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 soon after the announcement of the bid evaluation report. Under no circumstances will the personnel involved in the procurement process on which the complaint has been lodged be allowed to sit in the review of the complaint. The committee shall investigate and decide upon the complaint within fifteen days of the receipt of the complaint. If the committee fails to respond to the complainant then filing of an appeal to the KP-PPR Authority is another option available with the bidder for redressal of complaint. The decision of Authority on the appeal shall be final. However, it is important to mention that mere fact of lodging of a complaint shall not warrant suspension of the procurement process.

8.5. Arbitration

After coming into force of the procurement contracts, disputes between the parties to the contract shall be settled by arbitration. The procuring agencies shall provide for a method of arbitration in the procurement contract, not inconsistent with the arbitration laws of Pakistan.

9. Contract finalization and issuance

A contract is legally binding agreement between the procuring entity and the selected vendor which establishes the terms and conditions while identifying the rights and obligations of both department and the vendor. Contract deeds for all kind of procurements like Goods, Works or Services shall be made on the prescribed formats available on the web portal of KP-PPR Authority.

9.1. Contract discussions with vendors

Only purpose to discuss contract at this stage is to discuss the remaining issues that are not explicitly covered in the solicitation document, or by the vendor's offer, but which are essential for proper implementation of the contract. It warrants further clarity of the terms and conditions duly agreed between the parties with special emphasis on the respective responsibilities under the contract. Primarily, areas that could be discussed in this stage include detailing of delivery plan, milestones, payment schedule and on some rare occasions even certain special terms and conditions may form part of the contract discussion. No discussion on those terms and conditions should take place which put other bidders in disadvantageous position like modification in the provisions of limitation of liability, insurance, liquidating damages and the like. This is, in fact, very important to understand that this discussion should not be confused with the negotiations as this exercise is only carried out to bring further clarity in the overall work-plan. All such discussions must be brought in writing and changes agreed between vendors and procuring entity must also be incorporated in the contract.

9.2. Advance payment

Advance payments refer to payments made prior to receipt of goods or performance of any contractual services or works. As practice in vogue, payments from the government exchequer are only made on work done, goods delivered and services rendered. However, at certain occasions, provision of advance payment is also permissible to provide financial flexibility to the vendor but only if contract generally foresees performance of a series of services scheduled for completion/delivery within the timeframe of the contract.

Wherever work-plan is divided in various milestones and each mile stone has its own delivery time then mechanism of partial payments can be derived. These partial payments are intended to reimburse expenditures incurred and partial payments to the contractor's fee already earned. These partial payments can be requested by the contractor/vendor in advance of delivery of goods, services or work against the work specified in the awarded contract, referred to as "Advance Payments" but this mode of payment must be specified in the contract accordingly. Any request from the vendor for advance payment shall be justified in writing by the vendor in its offer. This justification must explain the need for the advance payment, itemize the amount requested, and provide a time-schedule for utilization of the requested advance payment amount. Payments if made in advance must address associated risks through proper mechanism and instructions regarding the reimbursement of any advance payments. One way to mitigate risks attached with advance payment is to ask for Bank Guarantees but if that is not possible then the procurement

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committee must prepare and sign a note to file explaining that proper due diligence is carried out and maximum care is taken to avoid associated risks.

Examples of specific activities that may justify an advance payment are:

1. Mobilization costs (mainly for construction works), such as purchase/lease of equipment/materials/ machines and/or transfer of same to the project site, establishment of base camps, and transport of personnel to the project site.
2. Start-up costs (mainly for services), i.e. purchase of airline tickets, down payments for rental/purchase of office premises/equipment on project site;
3. Design or design adaptation costs, related to goods/machines that require design and manufacturing from scratch and/or where no production lines exist;
4. Payment of lease (premises), payment of water/gas/electricity, etc;
5. In case of payments to line department for manufacturing and delivery of Goods but only if Finance Department agrees to it and provides financial sanction for such arrangement.

It is the responsibility of Procurement Committee to evaluate the proposal of vendor for advance payment and give its comments indicating that whether an advance payment is justified. In any such event, vendor have to submit requisite documentation regarding its financial status e.g audited financial statement, history of banking transactions and/or any other document essential for determining financial solvency and reliability of the vendor. In addition to that, procurement committee must also verify all kind of registrations and also examine provided references in the best interest of department.

9.3. Performance Securities

Performance securities are meant to mitigate the risk of supplier non-performance and breach of contractual obligations. They may include against risk cover against non-delivery of all/partial goods as per specifications, services not rendered as agreed in the contract and/or work not done as per schedule of work. Securities and guarantees should be issued in the form of an unconditional and irrevocable bank guarantees; however, bonds, demand drafts, cashier's cheques or irrevocable cheques certified by a bank can also be accepted in lieu of guarantees if approved by a procurement committee. The arrangement of performance guarantee along with prescribed templates must be mentioned and attached respectively with the Bid Solicitation Document (SBD). If the performance security is required, the winning bidder shall provide the performance security of the contract within the specified period of time of contract signature. Performance guarantee shall not exceed 10% of the bid value and it should be specified in the bid solicitation document as well. 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. Similarly, the bid security shall be forfeited if a bidder withdraws his bid, with in the validity period thereof or, in the case of a successful bidder, who repudiates the contract or fails to furnish performance security. Preferably, bid performance guarantees shall be furnished in the home currency; however, widely used international currency can also be used but only if it is mentioned in the bid document.

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. The performance shall be returned to the vendor not later than 30 days following the date of completion of supplier's performance obligation under the contract, including any warranty obligations.

9.4. Review and handling of Bank Guarantee and securities

Bank guarantees received by procuring entity in particular those for advance payment security and performance security must be reviewed upon receipt (and before disbursement of the advance payment, if applicable) for authenticity. In general, a bank guarantee is provided on the stamp paper which is issued in the name of the bank issuing the Guarantee. The following aspects will be verified regarding the bank issuing the guarantee:

1. Credit rating of the issuing bank as determined by the State Bank of Pakistan;
2. Sovereign credit risk, in instances where the bank is wholly or partially owned by a state/government entity;
3. If the bank is included in the pre-authorized list by State Bank of Pakistan.

The process of authentication of Bank Guarantee after receipt is as follows:

1. A definition of the parties involved: Procuring entity, seller Bank and Principal/Client;
2. A reference to the underlying transaction/contract;
3. The guarantee amount: the maximum amount payable and the currency in which it is payable;
4. The period of validity;
5. Documentation: Any demand for payment under the guarantee should be in writing and in addition to other documents which may be specified in the guarantee;
6. Effective Clause: A Guarantee enters into effect on the date of issuance unless the terms of the guarantee expressly provide that such entry into effect is to be at a later date or is subject to conditions specified in the Guarantee and determinable by the Guarantor;
7. Conditions for a Bank Guarantee Exercise, in particular: Disbursement upon initial request (initially) without any objections; being irrevocable; being unconditional; being non-transferable;
8. Information that a partial and multiple fulfillment is allowed, up to the maximum amount of the sum guaranteed;
9. There are no unauthorized provisions;
10. The guarantee is signed by authorized signatories.

Bank guarantees, e.g. bid security, performance security or advance payment security, are original documents that can be cashed and will ultimately be returned to the bidder (unless procuring entity decides to encash them on vendor's failure). As such, they must be kept in a safe place and extreme care must be taken when handling and filing them. It is the

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responsibility of the head of the procuring entity to hand-over original bank guarantees to the finance wing of the procuring entity. Finance section is required to:

1. Keep the documents in a safe place;
2. Keep track of the validity of the documents through a registry system;
3. Notify the procurement official and project manager of the expiry date of the securities at least four weeks in advance.

9.5. Documentation of Contract

All contracts must be signed by the competent authority as per delegation of financial powers on behalf of procuring entity and duly authorized individual on behalf of the vendor. However, contract once approved by the competent authority on file with the mention of its significant terms and conditions than any other responsible officer involved in its execution can sign the Contract on behalf of procuring entity. However, care must be taken to ensure that the signatories to the contract are legal persons for the purposes of contractual relations, and have the ability to represent and capacity to bind the respective contracting parties to the obligations there under. A contract will come into force once it has been signed, in writing, by both contracting parties.

The contract should be issued in one original copy and the vendor should be instructed to return a countersigned scanned copy to the department. Alternatively department may issue two original copies, sign both, send them to the supplier and instruct them to return one of the originals. The signed contract must be kept on record for future reference.

All pages of all the documents forming part of a contract or agreement to which department is a party, including all attachments, need to be initialed by duly authorized representatives of the parties, except for the page that contains the full signature block, which shall be signed by such representatives.

Once a contract has been signed, it may be amended only if the contract provisions allow modifications and if additional related goods, services, or and/or works are to be provided/rendered by the same supplier in furtherance of the execution of the original contract. Each contract amendment must be in writing and must comply with applicable contractual terms and conditions and KP-PPRA procurement procedures. All other situations call for a new solicitation process and establishment of a new contract.

10. Contract management

One of the most important elements in all procurement related activities is instructions with regards to Contract management and contract administration. KP-PPR Authority is working on preparation of detailed instructions to cover this vital aspect of procurement. In this section, only best practices followed around the world will be discussed for facilitation and comfort of the staff involved in the procurement process. Contract management refers to all those administrative actions after the award of contract which falls under the domain of line manager incharge of the procurement process and primarily relates to activities such as vendor performance monitoring, contract amendments, payments, contract closure, record retention, maintenance of the contract file and the like.

10.1. Vendor performance monitoring

Management of contract starts with the monitoring of the performance of the vendor to ensure that item procured is as per specification, TORs and/or SOWs and which is delivered in the right quantity within the prescribed timelines while no variation in pricing/ costing is made.

To be more precise, all bid solicitation document provides for detailed requirements/responsibilities of the vendor and to the extent to which supplier fulfills these requirements could be used to measure the achievements of performance indicators. This is instrumental in evaluating the ongoing performance of the contract like quality standards, delivery times, inspections, milestones dates' etc. All these activities are meant to ensure that supplier's performance is in accordance with the contract and variances, if any, are justified and that contracts are amended to reflect the agreed changes to the scope of work.

Contract administration is also vital from sustainability point of view, as it assesses and monitors the KPIs and other soft progress indicators to bring improvements in the contract implementation throughout the procurement process. It is, however, also paramount to keep open communication mode during the contract management phase with the suppliers about the sustainability expectations of the procuring entity with regards to suppliers performance. However, lessons learned and sustainability improvement that has taken place in this phase should be fed back into subsequent procurement processes.

10.1.1. For Goods

Contract monitoring process:

Contract management is the active monitoring and control of all aspects of the relationship between the supplier and the procurement entity. The monitoring and control procedures for any contract should be considered at the specification stage.

The monitoring activities can be divided into three areas: service delivery management, relationship management and contract administration. It is the responsibility of the procurement committee to ensure that all three areas are being implemented according to the requirements of the procurement entity.

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Monitoring of transportation of Goods and their evaluation after receipt are the two major activities on the part of procurement committee and for their execution, proper mechanism must be chalked out. In majority of cases, transportation of Goods is the responsibility of supplier; however, supplier must seek concurrence of procuring entity with regards to mode of transportation selected by the vendor. Some of the essentials required for the monitoring on transportation are as follows:

1. Coordination with the supplier to ensure that proper arrangements are made on time for the stock-take, counting, evaluation and storing of the Goods on receipt;
2. Effective communication channel among suppliers, consignee, requisitioner/ end user and relevant sections of procuring entity like Finance, M&E etc so that all are informed accordingly of any change of plan or if there are any other significant developments;
3. If necessary, request an extension of the performance security if the procurement activity is delayed;
4. Procurement committee must notify at the time of bids evaluation an evaluation team with sufficient technical know-how to cross check the delivered Goods with the approved specifications and this must be done in the minimum possible time (preferably 2-5 weeks-time) after the receipt of the Goods. In case of variations from the approved specifications, all items received shall be returned back to the vendor with the report to the head of procuring entity for taking it up at appropriate level;
5. In case all the Goods received are according to the specifications provided in the bid solicitation document then a certificate will be issued to the vendor to record the same effect as it will be required at the later stage to process vendor's bill from the respective accounts offices.

Key Controls Issues:

The number and extent of these review points will be determined by the complexity and length of the contract. It may include:

Any unsatisfactory performance,

Any misunderstanding of the requirement by the supplier,

The possibility of inadequate channels of communication between procuring entity and supplier,

Any changes to the contract brought about by altered requirements,

The possibility of unrealistic initial timescales (often the most common control issue in service contracts),

Any changing circumstances for the supplier (e.g. excessive growth, or reduced earnings leading to lay-offs), and

The possibility of supplier insolvency

Typical performance indicators used for monitoring of contracts:

1. Comparison of required delivery date and actual delivery date;
2. Comparison of quantity ordered and quantity delivered;
3. Comparison of compliance between ordered and delivered specifications.

10.1.2. Services

When contracting services, project managers/requisitioners must monitor the performance of the contractor by ensuring timely receipt and acceptance of the deliverables specified in the contract (e.g. inception reports, progress reports, reports from workshops or training sessions, or as agreed in the contract).

It should also be ensured that performance indicators, milestones and checkpoints on the supplier's sustainability performance are included in the tender documents, and are regularly monitored during the contract management phase. The deliverables under the contract must be acknowledged and approved by the requisitioner/business unit, and occasionally also by the end user if applicable. Further, suppliers, requisitioners/business units, and end users must be kept informed of changes or modifications to the contract (e.g. change of mission dates, start-up date, stakeholders' contact details, etc.).

Typical performance indicators used for monitoring of service contracts:

1. Timely delivery of outputs as per the contract;
2. Timely response to departmental request for technical advice;
3. Quality of services rendered.

10.1.3. Inspections

One of the modes to monitor contract is inspections which involve examining or testing of a product to confirm that it conforms to the required specifications. Monitoring of the contract and evaluation of the end product can be achieved through inspections. Inspections can be performed through departmental staff, or through third party on a one time basis or for throughout the life of procurement activity. Departmental inspections are more suitable for the inspections of Goods procured and Works done under contract; however, lack of technical know-how and/or non-availability of regular section for inspection can lead to hiring of third party firm to do the requisite inspection and report to the department. For works, permanent presence on the site is required to ensure control, testing and approval construction at all staged of the works. For this particular task, site supervision may be performed by in-house engineers or by contracting supervision services.

During inspections, quality can only be ensured if all the necessary resources are well-thought and arranged in time. It may include sufficient personnel, testing regimes, specifications, construction drawings, standing operating procedures for testing, rejection and removal of defective works and all other necessary processes of plant, materials and workmanship approvals. These processes must be followed carefully and the relevant time limitations observed.

10.2. Acceptance of final product

Contracts are supposed to complete with the acceptance of the final product and it is the responsibility of requisitioning section and/or main store supporting by admin/finance sections to report receipt of final product. However, in the procuring entity, concerned DDO shall record and file this information in the relevant if it falls under his/her budgetary

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allocations and use it for payment purposes as per financial delegation of powers as well as to take corrective actions, if necessary.

For all three major kinds of procurements i.e. Goods, Work and Services; acceptance is carried out accordingly. Some broad guidelines are as follows:

1. Except for defect liability or maintenance by the consultant or contractor, as specified in the conditions of contract, performance of the contract shall be deemed close on the issue of overall delivery certificate which shall be issued within thirty days of final taking over of goods, or receiving the deliverables or completion of work enabling the contractor or consultant to submit the final bill. However, in case of defect liability or maintenance by the consultant or contractor, 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. Relevant provision for closing of contract shall be a part of the bid solicitation documents
2. All stores should be examined, by a delegated officer within the department, on receipt of goods to ensure that there is a valid purchase order, that the correct quantities and qualities have been received, and that they are in good condition. The officer receiving the stores should also be required to give a certificate that he has actually received the materials and recorded them in the appropriate stock register. Immediate appropriate action should be taken by the delegated officer within the department if unsolicited goods are received or if quantities or qualities are wrong, or if the goods are not in good condition.
3. Where goods are received from within the department (i.e. from another departmental store) or from another department, the issuing store will prepare an issue voucher and send copies to the recipient, who should return a signed copy. This signed copy of the issue voucher shall be kept by the issuing store for reconciling of goods. The recipient should ensure that the goods are checked, that any discrepancies are resolved, and both the sender and the recipient will ensure that their records are updated.
4. Relevant delegated officer of procuring entity must receive written confirmation from the project manager/requisitioner that the services have been satisfactorily completed in accordance with the terms specified in the contract. The requisitioner (with the input of the end user, where relevant) must confirm in writing receipt and acceptance of all deliverables specified in the contract;
5. When procuring works, the employer's representative must ensure that the works are proceeding in accordance with the agreed timeline in the contract. This can be done through regular site visits or through progress or status reports from the employer's representative responsible for administering the works contract. At departmental level, contract of works have specific processes for the acceptance of works which includes the issuance of the Taking-over Certificate and Final Completion Certificate.

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Key Monitoring tools	
Activity	Options
Monitoring the suppliers' performance against the specific targets set out in the specification	Through the use of a phased approach and therefore reviewing progress at the end of regular phases against the original targets
The way in which completed work will be inspected and accepted.	Through site visits for construction projects or presentation of interim reports for consultancy projects. Acceptance can be through a signed inspection report or agreement to pay an interim payment.
How complaints will be received and recorded from customers particularly where the service may be delivered to the public on behalf of the Procuring entity.	Provide a specific point of contact within the department to deal with customer complaints
How customer satisfaction with the service will be recorded.	Frequent contacts with the beneficiary community and/or use of questionnaire evaluation forms at the end of staff training courses.
Obtaining information from the supplier on their opinion of their progress.	Through the use of regular progress reports or site meetings
Agreeing any revisions in timescale, quantity/quality of outputs from the supplier	Through monthly progress review meetings

10.3. Supplier performance evaluation

The requisitioning section or committee formed at the Secretariat/Directorate/District level or as directed by the head of procuring entity should conduct evaluation of the supplier's performance with the support of staff with relevant expertise (within the department or line department) throughout the implementation phase and periodically report progress to the Principal Accounting Officer. It is important to carefully document contract performance in order to provide evidence of the performance of the supplier; in the event of disputes; in order to form an institutional memory, and for audit purposes.

In order to ensure contract compliance, the project manager/requisitioner in charge of the procurement activity is expected to monitor performance on an ongoing basis through reports, meetings, and, if applicable, inspections. The following topics can be addressed in evaluating the performance:

1. Fulfillment of delivery schedule/timely delivery;
2. Quality of goods or services provided in accordance with the contract;
3. Compliance with contractual terms and conditions;
4. Adherence to warranty provisions;
5. Fulfillment of social and environmental requirements;
6. Sustainability performance exceeding minimum requirements;
7. Timely response to departmental requests;

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8. Undue delay of the performance under the contract;
9. Any frivolous claims against procuring entity;
10. Failure to disclose information relevant to performance (e.g. bankruptcy, ongoing litigation, etc.).

Depending on the nature of the procurement, the joint process to evaluate supplier performance could consider the following approaches:

1. Using questionnaires, which require a sound knowledge of what will be measured to ensure relevance of result;
2. Undertaking site visits;
3. Using metrics and key performance indicators for contracts;
4. Developing and using supplier scorecards to measure cost of poor quality, customer social responsibility, etc.;
5. Measuring performance against service level agreements.

If a contractor or consultant has shown significant or persistent deficiencies in the performance of a contract then process of cancellation or termination of the contract may be started as per procedure devised in the bid solicitation document. 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 Government . Such barring action shall be duly publicized and communicated to the Authority, provided that any contractor or consultant who is to be blacklisted shall be accorded adequate opportunity of being heard in person. Case of blacklisting of the vendor should be sent to appropriate forum with supporting documentation and justification explaining such performance failure which compelled procuring entity to take such a drastic action. The bidder will have a right to complain to the administrative Secretary of the procuring entity or to file an appeal to the Authority in accordance with section 35 of the Act and regulations or guidelines to be framed under it.

10.4. Termination of Contract

A breach of contract may entitle the non-breaching party to certain remedies, including compensatory damages to indemnify the non-breaching party for any loss suffered due to the breach. In addition, the non-breaching party may also have access to contractual remedies. Any such breach also leads to a contract termination.

Goods:

The Agreement shall terminate when Services have been completed and full and final payment has been made. Client can terminate contract through written notice of thirty (30) days to the supplier and all accounts between the Client and Service Provider shall be settled not later than sixty (60) days of the date of such termination. Supplier can also suspend/terminate the agreement by the written notice of thirty (30) days only if the supplier does not receive payments due under this Agreement within thirty (30) days of the

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submission of the invoice. If the payment is still not made to the supplier after thirty(30) days of notice of suspension, the Supplier/Vendor may terminate this Agreement in whole or in part by giving fifteen (15) days advance notice of intent to terminate. If the Agreement is terminated by the supplier under such circumstances, the Procuring entity shall pay, within a period of thirty (30) days of the date of such notice of intent to terminate referred above, all payments due to the supplier.

Consultancy Services:

The procuring entity can terminate contract with written notice of not less than thirty (30) days or sixty (60) days if it in its sole discretion and for any reason, whatsoever, decides to terminate the contract. Some of the conditions which can force procuring entity to terminate the contract are as follows:

1. If the Consultant does not remedy the failure in the Performance of their obligations under the Contract, within thirty (30) days after being notified or within any further period as the Procuring Entity may have subsequently approved in writing;
2. If the Consultant becomes insolvent or bankrupt;
3. If the Consultant, in the judgment of the procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
4. If, as the result of Force Majeure, the Consultant(s) are unable to perform a material portion of the Services for a period of not less than sixty (60) days.
5. If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings;

The Consultants may terminate this Contract, by not less than thirty (30) days' written notice to the procuring entity, such notice to be given after the occurrence of any of the below mentioned events:

1. If the procuring entity fails to pay any money due to the Consultant pursuant to the Contract without consultants fault. In any such event, consultants to submit forty five (5 days) written notice to the client that delivery or payment is overdue.
2. If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
3. If the procuring entity fails to comply with any final decision reached as a result of arbitration.

Upon termination of this Contract in either of cases mentioned above, the procuring entity shall make the following Payments to the Consultant:

1. Payment for the Services performed satisfactorily prior to effective date of termination;
2. Except in the case of termination, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependent's

10.5. Dispute Resolution

Contracts should be clear and the responsibilities and obligations of both the supplier and procuring entity must be clearly defined in order to minimize the possibility of disputes and disagreements. As a good practice, in case of complex contracts for goods and services it is recommended to create a simple and clear Responsibility Matrix that would constitute an Annex to the contract. However, no matter how well a contract is drafted and its performance managed, disputes can and do arise

The procedures for dealing with claims, disputes and arbitration are specified in general in KP-PPR Rules. Some of the guidelines are as follows:

1. The parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the Contract and the success of the assignment. The parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation;
2. Any dispute between the parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one party of the other Party's request for such amicable settlement may be submitted by either party for settlement in accordance with the provisions specified in the Special Condition;
3. Any dispute arising out of this Contract, which cannot be amicably settled between the Parties, shall be referred to adjudication/arbitration in accordance with the Arbitration Act of 1940.

It is particularly important to keep good records of all circumstances that may give rise to claims and/or disputes. As a matter of fact, amicable settlement is the first step in a dispute resolution process. All negotiations undertaken to reach amicable settlement are based on openness to compromise since this is often less costly than alternative methods of dispute resolution. It should be utmost priority of the department to resolve disputes through negotiation. Where negotiation is not possible or fails, more formal means of dispute resolution should be used.

Arbitration is also a mutually agreed method of dispute resolution, but the arbitrator(s) are given authority to render a binding judgment. Contracting parties normally agree to arbitration by including an arbitration clause in their contract. Such a clause can be found in all standard KP-PPRA contracts in the General Contract Conditions.

10.6. Payments

Financial management and payment refers to the timely processing of payment of invoices consistent with the terms of the contract, as well as the review of financial implications arising from contract changes, and the liquidation of financial securities (i.e. release of performance and advance payment securities) provided the reason for requesting them no longer exists.

Procuring entity shall ensure that the terms and conditions of payment are consistent with those specified in the contract document. The following examples contain standard payment terms for goods, works and services:

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For the procurement of goods, the payment becomes due when the following documents are submitted:

1. The Supplier/Vendor submits manually signed invoice in triplicate certifying that merchandise supplied is in accordance with the contract. The invoice must contain details of purchase order, items receipt report, receipt acknowledgement report and the costing of each item supplied;
2. Material/Deliverables Receiving Report (in original) signed by the authorized representative of procuring entity in acknowledgement of having received all supplies/deliverables in accordance with the Purchase Order/Contract Agreement;
3. Authenticated sales tax invoice in original as prescribed in the Sales Tax Act 1990 (where applicable);
4. Valid Income Tax Exemption Certificate (otherwise Income Tax at current applicable rates shall be deducted from the invoice, where applicable);
5. National Tax Number;
6. Sales Tax Registration Number;
7. Recovery of all applicable taxes at source should be made as per rules;
8. Certificate from procuring entity stating Goods as per standard/professional requirement.

For the procurement of services, the payment must ideally follow broad instructions given in the standard bid document for services on the KP-PPRA portal or select any other schedule of payment as convenient to the procuring entity; however, whatsoever, mechanism of payment is devised, it must be incorporated in the special conditions of the contract. Broad guidelines of payment clause are as follows:

1. The total Payment due to the Consultant shall not exceed the Contract Price which is an all-inclusive fixed lump-sum covering all costs required to carry out the Services described in TORs attached as Annexure A with the contract. However, increase or decrease in lump sum payment to consultant may result due to increase or decrease of Taxes and other duties if occur during the period of contract;
2. The price Payable in Pak Rupees/foreign currency/ is set forth in the Special Conditions;
3. For determining the remuneration due because of additional services may be discussed and agreed upon with the consent of both parties and such modification/variation in contract must be incorporated in the Contract in written before commencement of services and processing of payment;
4. Payments will be made to the account of the Consultant and according to the Payment schedule stated in the Special Condition. Any advance payment if made shall be protected against risks through bank guarantees which must be valid throughout the life of the contract. Any other payment outstanding after the fulfillment of conditions listed in the Special Conditions shall be paid after the submission of invoice by the consultant specifying the amount due for that particular service.

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For the procurement of works, the payment terms depend on the contract form selected. All payments are considered as 'interim payments (running bills)', until such time as the 'final payment (final bill)' is made:

1. All terms of payments should be prepared and incorporated in the Contract Data by the procuring entity and also to make sure that all taxes and duties are included by the Bidders/Contractors in their prices. Other instructions are as follows:
2. Unless otherwise stipulated in the Conditions of Contract, prices quoted by the bidder shall remain fixed during the bidder's performance of the Contract and not subject to variation on any account;
3. The unit rates and prices in the Schedule of Prices shall be quoted by the bidder in the currency as stipulated in Bidding Data;
4. The Contractor shall notify the Engineer/Procuring Entity in writing as soon as he is aware of any circumstance which may delay or disrupt the Works, or which may give rise to a claim for additional payment;
5. Interim Payment: Within a period not exceeding seven (7) days from the date of submission of a statement for interim payment by the Contractor, the Procuring Entity shall verify the same and within a period not exceeding thirty (30) days from the said date of submission by the Contractor, the Procuring Entity shall pay to the Contractor the sum verified by the Engineer less retention money at the rate stated in the Contract Data;
6. Final Payment: Within twenty one (21) days from the date of issuance of the Maintenance Certificate the Contractor shall submit a final account to the Engineer to verify and the Engineer shall verify the same within fourteen (14) days from the date of submission and forward the same to the Procuring Entity together with any documentation reasonably required to enable the Procuring Entity to ascertain the final contract value. Within sixty (60) days from the date of receipt of the verified final account from the Engineer, the Procuring Entity shall pay to the Contractor any amount due to the Contractor. While making such payment the Procuring Entity may, for reasons to be given to the Contractor in writing, withhold any part or parts of the verified amount; and
7. Currency: Payment shall be in the currency stated in the Contract Data.

10.7. Contract Completion

Though Contract completion has different sets of arrangement for Goods, Services and Works; still, the most general conditions include confirmation that all obligations have been fulfilled, any residual obligation is identified and assigned for subsequent completion, final payments are settled, contractor assessment is done and finally all project specific administrative files are closed.

Procuring entity must verify that the following activities have been carried out:

1. All products and/or services required have been provided to the buyer;
2. Documentation in the contract file adequately shows receipt and formal acceptance of all contract items;

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3. No claims or investigations are pending on the contract;
4. Any assets acquired during the course of Contract have been lawfully disposed of and all kind of discrepancies in numbers and conditions have been resolved;
5. All actions related to contract price revisions and changes have been concluded;
6. All outstanding subcontracting issues have been settled;
7. If a partial or complete termination was involved, action is complete;
8. Original copies of all warranty documentation, including expiration dates, responsibilities and procedures to follow are finalized;
9. Any required contract audit has been completed;
10. The final invoice has been submitted and paid.

Departmental contracts for works contain specific procedures for the contract completion and close out, including:

1. Notification by the contractor that the works or a part of the works has reached the stage of substantial completion;
2. Issue of a taking over certificate stating the date on which the works or the relevant part of the works reached substantial completion, or notification that there are defects or deficiencies in the works or the relevant part of the works that prevent substantial completion being reached;
3. Taking over of the facility by procuring entity;
4. A defects notification period;
5. Notification and rectification of defects;
6. Issue of a final completion certificate.

The contractor's obligations shall not be considered to have been completed until the employer's representative has issued the final completion certificate to the contractor that also confirms all identified defects during the defects notification period have been fully addressed.

10.8. Maintenance of files

Requisitioning section must establish a procurement file for each procurement process. In addition to information documenting the procurement process, the file must include all information required to successfully administer the contract. Any issues of clarification or change of the contract must be fully documented in this file. In order to provide their input throughout the contract administration phase, the requisitioner/line department will normally have a separate file with a copy of the contract as part of the project management file.

In line with the procurement principles of transparency and accountability, and in order to facilitate internal and external audits of procurement, every step in the procurement process shall be documented and kept on file. For procurement processes, documentation includes tender documents, bid opening report, bids received, evaluation team approval, evaluation documentation, evaluation clarifications, award approval, etc.

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A standard filing system, as well as a numbering system to enable tracking of files, must be established in every section of the procuring entity in order to create an audit trail and to facilitate management of procurement activities. The establishment of proper routines for documentation of the procurement process is the responsibility of the Project Management Unit (PMU)/line manager, where procurement is undertaken.

Relevant section of procuring entity must open a procurement file for each case and such procurement files must be kept as permanent document for at least 10 years. Files should be systematically backed-up to ensure that information is not lost. Typically, procurement files will include the following relevant information/documentation, in original form and appropriately signed, wherever applicable:

1. Tender documents/ file includes consolidation of tender documents, preparation of tabulation statements, analysis of sales, comparative statement, evaluation of tender, documents by the technical committee, approval of the competent authority;
2. Purchase order file be maintained. It includes the documentary detail of the quantity ordered, rate accepted and delivery period, inspection of material, chemical analysis, acceptance of material on basis of suitability report from the consignee and finally, delivery of material to the ultimate consignee;
3. Material receipt note be maintained, it shows description and quantity of material accepted. It is an authority for payment;
4. Contractor bills show detail of material supplied and must always be accompanied by original copy of material, Receipt Note and original sales Tax Invoice;
5. Budget file contains appropriation for the purchases and budget release copy;
6. File relating to sanction/ approval of competent authority (both administrative and financial) to make the purchase and make payments and related documents, necessary for audit including need assessment, actual quantities demand, difference if any, from items purchased and those required along with justifications;
7. Amendments to solicitation documents (including procurement committee approval of amendments), and any other clarifications and correspondence with suppliers;
8. Designation of bid opening panel and technical evaluation team by the procuring entity;
9. Copy of bid receipt report;
10. Requisition file includes record of goods, services and works to be planned/ procured in a year before publishing advertisements;
11. Record of spare parts/ equipment or services procured from the original manufacturer or record of goods, services and works actually procured in a particular year;
12. Copies of tenders/ quotations invited to make the purchases along with specifications;
13. In case of limited tenders, sealed quotation, comparatives statements and invitation record;
14. Record showing the particulars of bidders who purchased tender documents, deposited bids and participated in the tendering process;

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15. Bid opening report;
16. Amendments to contracts/POs;
17. Acceptance report from requisitioner/end user;
18. Record of bidders who deposited bid security to the procuring agency;
19. Pre-qualification record of suppliers/ contractors;
20. Technical & Financial bid evaluation reports of each type of procurement;
21. Newspapers in which advertisements published against each of procurement;
22. Record of cash deposit receipt, received from the bidders;
23. Stock Register containing the entries of purchase and specification of items purchased;
24. Register showing details of items procured services made as well as work done;
25. The record pertaining to requisitions made by the department as well as approval of the competent authority for said procurements;
26. Record of black-listed suppliers/ contractors;
27. Purchase committee should also keep a record of evaluation of input cost of consumable stores on the basis of project usage in addition to the cost of the equipment while evaluating the bids;
28. Delivery of challans of suppliers/ contractors’
29. Instructions to bidders;
30. Proceedings of committees;
31. Final approval of competent authority for procurement from a particular bidder at specific rate;
32. Acceptance letter to successful bidders;
33. Bank guarantees;
34. In case of imported goods, import invoices, inventories, indents, letter of credit and shipping documents;
35. Issue indents/ acknowledgements;
36. Inspection rates/ laboratory tests and analysis reports of samples provided by suppliers;
37. Tender opening committee should record their proceedings and if feel necessary negotiation be carried out with the different suppliers/ contractors;
38. Taking over certificate for works;
39. Final completion certificate for works;
40. Insurance claims;
41. Vendor bill to AG/DAO for processing;
42. Proof of payment through duly verified automated cheques;
43. Supplier performance evaluation form;
44. Delegation of financial powers;
45. Codal requirements;
46. Contractor profile;
47. Firms registered with sales tax department;
48. Test reports; and
49. All latest instruction/ direction/ discretion/ rules/ regulations for procurement.

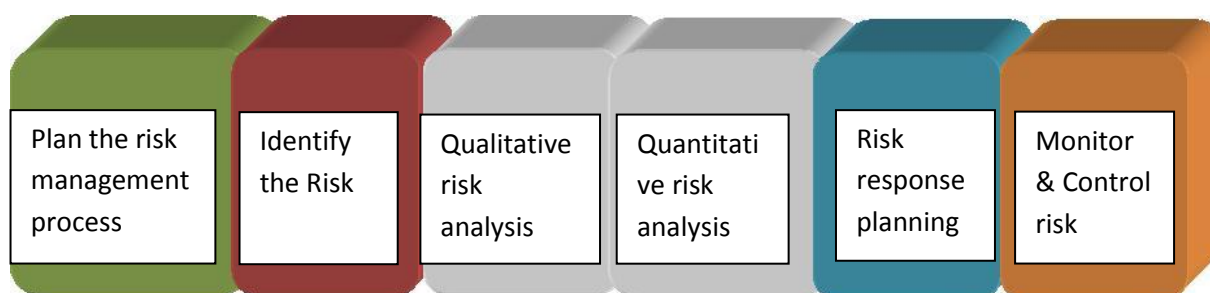
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	Checklist item	Y/N/ NA	Date checked	Comments
1	Did the PAO review the contract?			
2	Has the contract been signed by someone with appropriate authority?			
3	Was the contract properly witnessed?			
4	Has the letter of award and contract been posted on KP-PPRA website for review?			
5	Have the Security Bid, Performance Guarantees and other necessary security arrangements been obtained from the successful bidder?			
6	Are all general and special terms and conditions that apply included in the contract document?			
7	Have the processes, data used and conclusions of contract performance been fully documented?			
8	Has the end user been involved in the review of contract performance?			
9	Are progress payments appropriately approved?			
10	Are progress payments backed up with an evaluation of performance, stage of completion etc?			
11	Are progress payments paid on time?			
12	Does the entity made the appropriate deductions from payments in accordance with the contract?			
13	Has the performance security been appropriate released when the contractor has been paid all moneys excluding retention?			
14	Have retention moneys as specified in the specific conditions of contracts, been deducted from payments to the contractor?			
15	Were there any variations in the contract?			
16	If there were variations in the contract, were they approved by the Competent Authority?			
17	Have all obligations under the contract been fulfilled?			

11. Managing Risks in the Procurement

Risks are inherent in all the stages of the procurement process especially fraud and corruption. Therefore an effective procurement process requires the application of sound risk management practices aimed at protecting the interests of the government and ensuring that the procurement outcomes are achieved. A structured approach to the identification, quantification and subsequent management of risks must be adopted so that risks is retained by or transferred to the party who can manage the risks most effectively. The level and nature of risk management in the procurement process will vary according to the nature, size and complexity of procurement.

In the design and development of a procurement process, it is vital that the planners are able to identify the risks involved in various stages of the procurement process. They should be able to evaluate the risk management process undertaken by management and see whether appropriate measures have been undertaken to overcome the identified risks.



11.1. Basic Concepts

Risk is defined as the uncertainty of an event occurring that could have an impact on the achievement of objectives. Risk is measured in terms of consequences and likelihood. It is a concept that managers use to express their concern about the probable effects of an uncertain environment. Since the future cannot be predicted with certainty, managers have to consider a range of possible events that could take place. Each of these events could have a material effect on the enterprise and its goals. The negative effects are called 'risks' and the positive effects are called 'opportunities'.

There may be circumstances or events that should not occur for the procurement process to be successful. If you believe such an event is likely to happen, then it would be a risk.

11.2. The Risk Management Process

Risk should be identified at an early stage in the procurement planning. However, the identification of risk is not an end in itself, nor does the existence of risk indicate that procurement should not proceed. Therefore, the challenge is to decide whether or not risks are acceptable, i.e. whether they can be managed efficiently and effectively. Risk management is an iterative process consisting of well-defined steps, which support better decision making by contributing a greater insight into risks and their impacts. It is the systematic application of management policies, procedures and practices to the tasks of identifying, analysing, treating and monitoring those risks, which impact on organisations' objectives. It is the process of measuring, or assessing risk and then developing strategies to

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manage the risk. It demands that a plan of action be developed in relation to identified risk that minimizes the likelihood and consequences of these occurring. In general, such a plan of action may include transferring the risk to another party, avoiding the risk, reducing the negative effect of the risk, and accepting some or all of the consequences of a particular risk. The plan needs to be continually monitored and reviewed since risks and their relative significance change over time. The level and nature of risk management in the procurement process will vary according to the nature, size and complexity of procurement or the procuring agencies.

The outcome of the risk management process should be a formal Risk Management Plan designed in the following stages.

1. Establish Contexts:

The first stage in risk management processes involves determining key business objectives, processes and resources. In developing a strategy for managing the risks associated with the procurement process, it is important to understand, by all parties, goods to be delivered, the business outcomes and outputs that those goods support, the management environment and the business risks associated with the procurement.

This stage involves providing answers to the following questions:

- a. What are the objectives and goals of the procurement? (Objectives)
- b. Who is interested in or impacted by this procurement? (Stakeholders)
- c. What are the measures of success for this procurement? (Criteria)
- d. What are the key aspects that make up this procurement? (Key Elements)

Such information establishes the context that defines the overall priority of the procurement to the organization's objectives, which in turn determines the level of resources that should be allocated to the procurement risk management process. The costs incurred in managing the risk should commensurate with the size, type and complexity of the procurement and the benefits in terms of reduced levels of risk in order to achieve the primary value for money objective.

2. Identify the Risks:

This stage involves the identification of possible types of risks. The two major questions that should be asked at this stage are:

- a. What events could occur that may adversely impact upon the objective of the procurement? (What can happen?)
- b. How could these events happen and if they did, in what way would they impact upon the procurement? (How could it happen?)

3. Analyze and Evaluate the Risks:

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The risks should be evaluated in terms of likelihood and seriousness. Risks should then be graded to determine their significance and to identify those that need to be managed.

4. Manage the Risks:

The significant risks can be managed by either implementing preventative actions or by developing contingency plans. These are documented in the Risk Management Plan and include information on:

- a. What action is to be taken;
- b. Who by; and when.

5. Monitor and review the risks:

Throughout the project, some new risks may be identified, and some risks may be downgraded or upgraded depending on the progress of the procurement and other circumstances.

6. Communicate and consult:

Keep users and other stakeholders informed throughout the procurement process.

11.3. Process-Risk-Control Matrix

Process risk and control matrix is produced below.

Process	Risk	Consequences	Control
Identifying the need and planning the procurement	Lack of understanding of the need	<ul style="list-style-type: none"> • Procurement of unsuitable product or service • Money wasted, deliverable not met OR • Greater expense • Poor competition 	<ul style="list-style-type: none"> • Analyze need accurately; Be clear on specifications • Analyze need accurately • Use functional and performance requirements
	Misinterpretation of the needs	<ul style="list-style-type: none"> • Unacceptable procurement of unsuitable product or service • Time lost • Increased costs • Possible downtime 	<ul style="list-style-type: none"> • Improve consultation with users; • Obtain clear statement of work and definition of need; • Be clear on specifications;
	Insufficient funding	<ul style="list-style-type: none"> • Delay in the procurement • Additional costs for re-tender 	<ul style="list-style-type: none"> • Obtain appropriate approvals before undertaking process • Practice proper planning
	Unrealistic timeframe	<ul style="list-style-type: none"> • Insufficient responses from bidders • Reduced 	<ul style="list-style-type: none"> • Improve forecasting, planning and consultation with end users

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		competition • Delivery schedule not met	• Improve communication with • potential bidders
	Integrity issues	• Increased procurement costs • Misuse of resources • Most suitable product not obtained • Unethical conduct	• Implement best practice policies, guidelines and practices • Maintain ethical environment • Improve training of personnel • Put suitable controls and reviews in place • Improve communication with • potential bidders
Developing the Specification or Statement of Work	Definition of inappropriate product or service	• Need not satisfied • Time lost • Increased costs • Possible downtime	• Ensure specification is consistent with needs analysis • Improve market knowledge • Use functional and performance specifications
	Biased specification	• Insufficient responses from bidders • Claims of unfair dealings	• Use functional and performance specifications • Implement a control mechanism to review specification before release
Preparing the Bid Solicitation Document (SBD)	Terms and conditions unacceptable to bidders	• Loading of costs in offers • Having to modify tender terms and conditions • Disruption • Low response	• Select appropriate documentation for procurement type (ie. goods, services, goods and services, or information technology related) • Improve procurement planning • Assess and allocate risks appropriately • Provide staff with appropriate tender planning and procurement skills
	Providing inadequate information	• Loading of costs in offers • Variations in offers • Having to provide clarifying	• Ensure staff have appropriate training and experience in completing the relevant documentation • Improve tender

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		<p>information, causing delays in tender closing</p> <ul style="list-style-type: none"> • Additional costs 	<p>planning and preparation</p> <ul style="list-style-type: none"> • Review tender documents before issuing them and ensure evaluation criteria contain the critical factors on which assessment of tenders will be based
Inviting, clarifying and closing offers	<p>Failure to adequately address enquiries from bidders</p>	<ul style="list-style-type: none"> • Claims of unfair practices • Offers with qualifications by bidders • Withdrawal of offers 	<ul style="list-style-type: none"> • Implement standardized procedures for responding to enquiries • Provide staff with appropriate tender management training and experience • Respond in a timely manner to enquiries • Allow adequate time for bidders to respond
	<p>Actual or perceived bias in providing information</p>	<ul style="list-style-type: none"> • Complaints from bidders • Withdrawal of offers 	<ul style="list-style-type: none"> • As above, plus • Answer queries in writing and provide copies to all potential bidders • Ensure that all potential bidders are provided with any addenda
	<p>Actual or perceived breach of confidentiality</p>	<ul style="list-style-type: none"> • Complaints from bidders • Mistrust by bidders 	<ul style="list-style-type: none"> • Establish formal security procedures • Train staff in their obligations • Perform regular audits and reviews of security processes • Advise bidders of security measures
	<p>Insufficient number of responses</p>	<ul style="list-style-type: none"> • Need to undertake process again • Increased costs • Delayed delivery to the client • Poor value for money due to limited competition 	<ul style="list-style-type: none"> • Use appropriate tender advertisement strategy to increase competition • Provide potential bidders with advance notice of tender requests • Improve tender documentation and specifications • Allow sufficient time for bidders to respond

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Evaluating Offers	No response from known quality suppliers	<ul style="list-style-type: none"> • Reduced competition • Increased costs of products or services 	<ul style="list-style-type: none"> • Actions as above for insufficient number of responses • Improve your market knowledge • Review specifications or conditions • Seek feedback from known suppliers on their nonresponse
	Failure to follow effective evaluation procedures	<ul style="list-style-type: none"> • Inconsistent evaluations • Possible complaints from bidders • Subjective not objective evaluation of offers 	<ul style="list-style-type: none"> • Provide staff with appropriate tender assessment and evaluation training and experience • Improve tender assessment and evaluation processes • Maintain, audit and review evaluation procedures • Ensure that Evaluation Committee members declare any conflicts of interest
	Breaches of security	<ul style="list-style-type: none"> • Claims of unethical or unfair practices • Loss of faith with bidders 	<ul style="list-style-type: none"> • Maintain, audit and review security procedures • Provide staff with appropriate training and experience and monitor performance • Ensure that Evaluation Committee members understand and sign confidentiality Agreements
	Offers fail to meet needs	<ul style="list-style-type: none"> • Need to call tenders again • Additional costs • Delay in delivery 	<ul style="list-style-type: none"> • Improve market knowledge • Improve tender documentation • Conduct market research, Develop functional and performance specifications
	Failure to identify a clear winner Decision made on	<ul style="list-style-type: none"> • Claims of unethical and unfair behavior • Complaints from 	<ul style="list-style-type: none"> • Ensure evaluation criteria contain the critical factors on which the assessment

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Selecting the Successful Bidder	subjective grounds	bidders	<p>of tenders will be based and that they are clearly identifiable to bidders in tender documents</p> <ul style="list-style-type: none"> • Ensure evaluation criteria are appropriate and measurable • Ensure that Evaluation Committee members sign Declaration of Conflict and Confidentiality Agreements
	Selecting an inappropriate supplier	<ul style="list-style-type: none"> • Failure to execute the contract 	<ul style="list-style-type: none"> • Provide staff with appropriate tender evaluation, financial and technical skills training and commercial expertise • Improve evaluation procedures • Improve evaluation criteria and clearly identify them to bidders in tender documents • Reject unacceptable offers • Perform financial, technical and company evaluations before awarding contract • Procurement Review Committee to review tender and selection process prior to awarding contract
	Selecting inappropriate product	<ul style="list-style-type: none"> • Failure to meet the client's need 	<ul style="list-style-type: none"> • Ensure users are involved in the evaluation/selection process • Improve technical evaluation procedures and train staff as appropriate • Procurement Review Committee to review tender and selection process prior to awarding contract
Negotiation	Not matching the	<ul style="list-style-type: none"> • Contract disputes 	<ul style="list-style-type: none"> • Improve

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expectations of buyer and bidder	<ul style="list-style-type: none"> • Delivery delays • Cost variations • Reduction in value for money • Procurement of less suitable product • Inefficient use of resources 	<p>communication, including ensuring that Conditions of Contract form part of the Request for Tender</p> <ul style="list-style-type: none"> • Provide staff with training in contract planning and management • Define terms carefully • Record each party's obligations • Clarify all ambiguities before signing the contract
Deadlock on details of agreement	<ul style="list-style-type: none"> • Delays in delivery • Need to restart procurement • Possible cost of legal action 	<ul style="list-style-type: none"> • Look at alternatives to share risk • Distinguish between essential and non-essential goals and requirements
Failure to secure mandatory conditions	<ul style="list-style-type: none"> • Inability to conclude contract • Delays in delivery • Variations in cost • Inefficient use of resources 	<ul style="list-style-type: none"> • Establish baseline before negotiations • Distinguish essential goals • Consider variations to contract • Provide negotiators with adequate training
Unfair or arduous requirements on the bidder in the contract conditions	<ul style="list-style-type: none"> • Contract disputes • Invalidity of contract • Legal action • Poor supplier/customer relationship 	<ul style="list-style-type: none"> • Provide negotiators with adequate training and support • Negotiate commercial terms • Terms should be fair and reasonable
Failure to reflect the terms offered and agreed in the contract	<ul style="list-style-type: none"> • Contract disputes • Legal action • Poor supplier/customer relationship 	<ul style="list-style-type: none"> • Check final draft of contract with successful bidders • Keep records of all negotiations and agreements
Inadvertently creating a contract without prior approval	<ul style="list-style-type: none"> • Expense of negotiating out of the contract and paying damages • Committing to other associated work prior to main contract existing 	<ul style="list-style-type: none"> • Procedure in place to ensure requisite approval obtained first • Provide negotiators with adequate training

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Contract management	Variations in price and foreign exchange	<ul style="list-style-type: none"> • Cost overruns 	<ul style="list-style-type: none"> • Agree on prices and the basis of prices • Agree on a formula for calculating variations
	Unwillingness of the supplier to accept the contract	<ul style="list-style-type: none"> • Delays in delivery • Need to restart procurement 	<ul style="list-style-type: none"> • Seek legal redress if non acceptance causes financial loss • Negotiate but retain integrity of the contract
	Failure of either party to fulfill the conditions of the contract	<ul style="list-style-type: none"> • Contract disputes • Failure to satisfy needs • Delays in delivery • Downtime • Legal action 	<ul style="list-style-type: none"> • Ensure good contract administration and performance management • Hold regular inspections / meetings and ensure progress reports • Ensure all staff know responsibilities and conditions • Ensure good record keeping and documentation
	Inadequately administering the contract	<ul style="list-style-type: none"> • Cost increases • Failure of contract • Full benefits not achieved • Delivery of unsatisfactory product • Contract/supply disputes 	<ul style="list-style-type: none"> • Maintain up-to-date agency procedures and practices • Ensure all staff are suitably trained and experienced in contract planning and management
	Commencement of work by the supplier before contract is exchanged or letter of acceptance issued	<ul style="list-style-type: none"> • Potential liability to pay for unauthorized work • Possibility of legal action for perceived breach of contract 	<ul style="list-style-type: none"> • Confirm contract with written advice • Accept all contracts in writing • Ensure approvals are received before allowing work to start
	Unauthorized increase in scope of work	<ul style="list-style-type: none"> • Unanticipated cost increases • Contract disputes 	<ul style="list-style-type: none"> • Ensure all contract amendments are issued in writing • Record all discussions and negotiations • Confirm instructions in writing
	Loss of intellectual property	<ul style="list-style-type: none"> • Loss of commercial opportunity 	<ul style="list-style-type: none"> • Ensure suitable clauses are included in the contract

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Evaluating the procurement process	<ul style="list-style-type: none"> Unwarranted reliance on supplier for product support 		
	Loss or damage to goods in transit	<ul style="list-style-type: none"> Delays in delivery Downtime Liability disputes 	<ul style="list-style-type: none"> Include appropriate packaging instructions in specification Agree on insurance cover for supplier to provide Accept delivery only after inspection Know when title of goods is transferred to buyer
	Fraud	<ul style="list-style-type: none"> Misuse of resources Legal action Disruption to procurement activities 	<ul style="list-style-type: none"> Maintain an ethical environment Follow and maintain fraud control procedures
	Key personnel not available	<ul style="list-style-type: none"> Progress on project disrupted Less expertise 	<ul style="list-style-type: none"> Include requirement in specification and ensure compliance in post-tender negotiation Know the market Accept risk and manage possible delay
	Failure to evaluate procurement and management processes	<ul style="list-style-type: none"> Failure to improve procurement and management processes 	<ul style="list-style-type: none"> Develop systematic evaluation methods, techniques and evaluation criteria
	Failure to identify and address problems	<ul style="list-style-type: none"> Procurement objectives not achieved Possible failure in the future 	<ul style="list-style-type: none"> Agree on performance criteria (with supplier and customer) Develop good relationships with suppliers Include evaluation clause in the contract Implement performance management strategies

11.4. The importance of Ethics in Procurement

Ethics are the moral principles or values that guide officials in all aspects of their work. Ethical behavior encompasses the concepts of honesty, integrity, probity, diligence, fairness,

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trust and respect. Ethical behavior includes avoiding conflicts of interest, and not making improper use of an individual's position.

As an employee involved in the procurement process, you play an important role in preserving the integrity of Government contracting and assuring fair treatment of bidders and contractors. You might have access to procurement and other nonpublic information that could affect a contract bid or the award process. Improper disclosure of such protected information is violation of ethics rules can cause a bid protest or undermine the public's confidence in the procurement process.

Procurement committees responsible for knowing what their department's policies are regarding incompatible activities. The best practice for buyers and employees involved in the procurement process, whether directly or indirectly, are discouraged from participating in the following activities:

1. You may not knowingly obtain or disclose contractor bid or proposal information or source selection information before the award of the contract.
2. Proprietary information must be secured to prevent disclosure. It includes certain nonpublic information submitted in connection with a bid or proposal, such as:
 - a. Cost or pricing data, including indirect costs and direct labor rates;
 - b. Information about operations, methodology and techniques;
 - c. Information marked as "contractor bid or proposal information"; and
 - d. Any other information related to a specific procurement that a company making a bid deems proprietary.
3. Accepting directly or indirectly any gift, money or any other favor of value from any person who is doing or seeking to do business with the department you represent that may constitute a "bribe".
4. Using their position in government to bestow any preferential benefit on anyone related to them by family, business or social relationship.
5. Situations that create the appearance of questionable or unethical practices.

Before accepting any suppliers' goods and services offered at no cost or obligation to the Ministry/department, consideration must be given to the perception of the acceptance to other suppliers.

Staff of the procurement committees is encouraged to answer the following questions when dealing with suppliers who may offer gifts or gratuities:

- ✓ Will I violate a law or department policy if I accept this gift?
- ✓ What is the intent of the gift?
- ✓ Do I or my relatives or friends benefit from the gift?
- ✓ Would I mind seeing acceptance of the gift publicized in the news media?
- ✓ How will accepting this gift be interpreted by others?

12. Accounting of Stores

Stores are defined as consumable items or goods acquired not for resale, which are the property of, in the possession or under the control of the department. Store accounting is important due to the following reasons:

1. It is necessary to indicate the value of stock in the store;
2. It provides a means for calculating the cost of goods manufactured;
3. It provides a basis for control of inventory; and
4. It also ensures that all materials received have been accounted for and all receipts and issue of materials have been properly recorded in store ledger.

Instructions for maintaining subsidiary accounts by the department for the purpose of recording and maintaining stores are as follows:

1. Expenditure on stores incurred in the departments shall be included under contingent expenditure (except where it is treated otherwise e.g. stores relating to works);
2. Department managing stores shall issue directions to cover detailed procedures for stores accounting and control;
3. Stores accounts should be built up from properly authorized vouchers recording stores transactions;
4. In practice, the amount of detail in stores accounts is likely to vary, and in devising systems, department should pay regard to cost effectiveness. Factors to be taken into account will include the nature of the items being held, their value and attractiveness;
5. Procedures issued by the department should enable separate orders to be traced through each of the order, receipt and payment processes, and for the necessary cross checks to be carried out;
6. The Head of an office or any other officer entrusted with stores of any kind should take special care for arranging for their safe custody, for keeping them in good and efficient condition and for protecting them from damage or deterioration. Suitable accommodation should be provided more particularly for valuable and combustible stores. He/She should maintain suitable accounts and inventories and prepare correct returns in respect of the stores in his charge with a view to preventing losses through theft, accident, fraud or otherwise and to making it possible at any time to check the actual balances with the book balances and the payment to suppliers, etc;
7. All profit and losses due to re-valuation, stock-taking or other cause should be duly recorded and adjusted where necessary; and
8. Losses due to depreciations, theft/fraud, negligence, excess stores, damage and natural calamities should also be accounted for as per GFR instructions.

12.1. Segregation of Duties

Control of stores records rests with a delegated officer(s) within the department. While other people may be allowed access to the records for operational reasons, any adjustment

of the stores accounts should only be made by the delegated officer(s). The tasks of ordering stores, checking deliveries and approving payments should be separated wherever possible.

12.2. Receipt of Stores

All stores should be examined, by a delegated officer within the department, on receipt of goods to ensure that there is a valid purchase order, that the correct quantities and qualities have been received, and that they are in good condition. The officer receiving the stores should also be required to give a certificate that he has actually received the materials and recorded them in the appropriate stock register. Appropriate action should be taken by the delegated officer within the department if unsolicited goods are received or if quantities or qualities are wrong, or if the goods are not in good condition.

Where goods are received from within the department (i.e. from another departmental store) or from another department, the issuing store will prepare an issue voucher and send copies to the recipient, who should return a signed copy. This signed copy of the issue voucher shall be kept by the issuing store for reconciling of goods. The recipient should ensure that the goods are checked, that any discrepancies are resolved, and both the sender and the recipient will ensure that their records are updated.

12.3. Transfer of Charge of Store

In cases of transfers, the officer in charge of stores should see that the stores in his custody are made over correctly to his successor and a proper receipt taken from him. Every departmental officer is bound to take over charge of departmental stores which, from the death or departure of the person lately in charge or from any to cause, may be left at or near his station, without adequate protection.

12.4. Issue of Store

The head of the procuring entity should ensure that within their department, procedures are devised for the issue of the Stores like:

1. Demand of Store items require that those who are entitled for acquisition of stores are identified along with the circumstances in which stores may be demanded, and the procedure for making demands (including the signing of requisitions);
2. Procedures for issuing stores should cover, for example, instructions to store keepers on the conditions to be satisfied before stores may be released, and the arrangements for obtaining signed receipts;
3. Procedures for recording stores issues; and
4. Arrangements for reconciling stores demands and stores issues.

All Stores issued indent should come from authorized person on prescribed form, officer in charge has to examine it carefully with reference to the departmental instructions for the issue of Store and afterwards, signing the indent for the record. If he is unable to comply with the requisition in full then he should prepare and sign the form of the invoice attached to the indent according to the supply actually made. The indent should return at once to the requisitioning officer for signature. When materials are issued, a written acknowledgment

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should be obtained from the person to whom they are ordered to be delivered or dispatched, or from his duly authorized agent.

In case of Store issued to a contractor, the cost of which is recoverable from him, the acknowledgment should give full particulars of the materials issued, including the recovery rates and the total value chargeable to the contractor.

12.5. Annual Physical verification and Stocktaking

The immediate purpose of stocktaking is to deter and detect losses by theft and fraud, to verify the accuracy of stock records, and to identify any weaknesses in custody arrangements. This is responsibility of the head of procuring entity to ensure implementation of Stock Taking procedures adopted by the department as a source of independent verification of the stock. The stocktaking will be carried out under the overall supervision of incharge of unit of the procuring entity. If stores accounts or store keeping staff is required to assist, the concerned incharge should ensure that this will not prejudice the independence of stocktaking. Discrepancies between stock take and store accounts should be investigated by the delegated officer(s) and store accounts amended if necessary.

Any adjustments to store accounts shall be made only on the authority of an officer authorized by the department. Such adjustments shall be supported by reference to the relevant stocktaking reports and to the authority for the adjustments.

A copy of the stocktaking report shall be sent to the concerned DAO/AG/AGPR. A physical verification of all stores should be made at least once in every year under rules prescribed by competent authority, and subject to condition that the verification is not entrusted to a person:

1. Who is the custodian, the ledger, keeper, or the accountant of stores to be verified, or who is a nominee of, or is employed under the custodian, the ledger keeper or the accountant;
2. Who is not conversant with the classification, nomenclature and technique of the particular classes of stores to be verified; and
3. The verification should never be left to low paid subordinates and in the case of large and important stores, it should be as far as possible, entrusted to a responsible officer who is independent of the superior executive officer in charge of the stores.

In making a physical verification the following instructions should invariably be observed:

1. Verification must always be made in the presence of the officer responsible for the custody of the stores or of a responsible person deputed by him;
2. All discrepancies noticed should be brought to account immediately, so that the stores account may represent the true state of the stores ;and
3. Shortages and damages, as well as unserviceable stores, should be reported immediately to the authority competent to write off the loss.

Balances of stores should not be held in excess of the requirements of a reasonable period or in excess of any prescribed maximum limit. In order to ensure the observance of this rule,

a periodical inspection should be made by a responsible officer, who must submit a report of surplus and obsolete store to the authority competent to issue orders for their disposal. The inspection should, unless there is good reason to the contrary, be made six-monthly in the case of perishable stores and once a year in the case of other stores. Stores remaining in stock for over a year should be considered surplus unless there is any good reason to treat them otherwise.

12.6. Inventory Control policies and procedures

Inventory control is inevitable to ensure that assets procured are safe, secure and maintained in orderly and efficient manner while all necessary preventive measures are taken to avoid misuse of these assets. It includes devising procedures for taking assets on stock and issuance register, their utilization and availability for intended purpose, when required.

12.6.1. Responsibility of Officer in control of Inventory

The officer incharge of Inventory shall be responsible for all assets in the matters of:

1. Safe custody, complete up to date and accurate record of receipt and issuance of assets,
2. Maintenance of proper record of assets under warranty given at the time of delivery,
3. Movement/transfer of all assets,
4. Disposal of surplus, obsolete and unserviceable assets,
5. Arrangement of annual physical stock taking of the assets held in the Inventory as well as those issued to different wings of E&SE Department, attached departments and all other sub-ordinate offices in the districts;
6. Arrangement of periodic accounting of the assets to ensure that the best interest of the department is served in the disposition of these assets; and
7. Codification of every asset to facilitate its identification as and when required, including physical stock taking.

12.6.2. Responsibilities of End-User or End-User Unit

1. Every office, wing, section and/or officer/official of the department has an equal responsibility for care, custody, maintenance, record keeping, and control of all assets held under their control;
2. Up-to-date departmental records of all such assets shall be maintained by every office, wing, section and/or officer/official of the department as prescribed in this Guide and General Financial Rules pertaining to recording of Stores;
3. A log book shall be maintained in respect of every asset involving regular maintenance/repair and expenditure incurred thereon. Assets like Photocopiers, Diesel Generators, Vehicle, Desktops, Laptops, Printers etc. are included in this category;
4. Similarly, a profile of each asset, containing complete particulars including warranty etc. and history of earlier maintenance/repairs along with expenditures incurred,

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shall be maintained. The document shall be duly attached while forwarding the proposals seeking approval to cases for repair/maintenance;

5. No asset shall be moved/ transferred from one office, wing, section or officer/official to another except with prior formal information and permission of the Competent Authority and in adherence to the directive issued by the department from time to time;
6. Every office/user of the asset shall send a report immediately on happening of one or more of the events mentioned below to the Inventory Incharge (head of the procuring entity and/or respective line manager). A complete report shall be forwarded to the concerned section as mentioned above, not later than three (03) days after occurrence of the event along with necessary papers mentioned against each:
 - a. Asset Lost or Stolen – along with a copy of the FIR lodged with the nearest police station,
 - b. Asset Cannibalized – along with complete details,
 - c. Asset Destroyed – along with cause of destruction,
 - d. Asset Relocated to another building/room – with complete details,
 - e. Asset Found (having previously been reported lost or stolen) – along with details,
 - f. Asset Transferred to other attached departments – along with reasons for transfer,
 - g. Asset becoming Surplus,
 - h. Any other event concerning an asset considered to be worth reporting.
7. In case an item is no longer required for the purpose for which it was got issued, the fact shall be intimated immediately to the inventory incharge who will advise subordinate officer/official to submit a report in the matter. The asset shall thereafter be transferred to another section or office, site, where required, or returned to the inventory in charge's office; and
8. Any officer or staff member posted out of the Project shall also return the items issued to him in the like manner.

12.6.3. Codification of the Assets

The Inventory Incharge shall assign a unique identification code/barcode to every asset immediately (within 24 hours), when received for the first time in E&SE Secretariat or directly received at requisitioning unit or other offices, as per convenience of the Inventory controlling office. For those assets, which are purchased by the E&SE Secretariat and/or E&SE Directorate on behalf of sub-ordinate offices at the district level OR District Education Offices bought for the schools within the district, shall prepare codification scheme at their own level so that compilation and consolidation of procured assets could be done conveniently for the consumption of Audit and other investigative agencies.

In general, following information must be filled in and recorded at the time of asset codification:

- i. Name & description of the asset;

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- ii. Make, Model, Type and Manufacturer's Serial/Tag Number;
- iii. Specifications;
- iv. Detail of accessories;
- v. Detail of Documents i.e. Operational Manual, Use Guide etc.;
- vi. Purchase order reference i.e. order number/Contract Agreement;
- vii. Date of Purchase, price, warranty period etc.;
- viii. Name of Supplier and
- ix. Any other relevant information.

The code shall be marked at a visible place on the asset using an engraver or an irremovable sticker. The code number of the asset shall also be entered in the Operational Acceptance Testing (OAT) Report. The B & A Wing at respective office shall, on receipt of copy of these documents, make necessary entries including the code number of the asset, in Assets Register maintained in that Wing. The Inventory In-charge's office shall maintain the Assets Movement Register to record the quantities of assets received, along with code number of each item and the movement of such items from one Section/Office to the other. The Inventory In-charge's office and B & A Wing shall reconcile the Assets Movement Register and Assets Register, maintained by them respectively, on quarterly basis.

12.7. Fittings and Fixtures of the building

A proper Building Inventory shall be prepared in respect of all fittings and fixtures of a building at the time of taking over from the Civil Work Contractor after completion. The officer of the Project taking over the building and an authorized representative of the work contractor shall sign the properly filled building inventory in token of agreement of the both. A copy of the Building Inventory prepared as such shall invariably be forwarded to Inventory In-charge as well as to E&SE Directorate, Chief Engineer, B & A Wing and all other concerned offices.

Similarly, building inventories of all the existing buildings of the department shall be got prepared by the line manager of the concerned entity. Copies of the said building inventories shall be shared with Inventory In-charge, Chief Engineer, B& A Wing and all other concerned offices.

Thereafter, Inventory In-charge shall then adopt the same procedure, in respect of all fittings and fixtures, as detailed in this Guide for assets acquired through purchase. Only difference would be that the fittings and fixtures shall be treated to have been delivered directly to the relevant building without being routed through inventory. The Inventory Controller shall arrange physical marking of the identification codes/barcodes on the fittings and fixtures of buildings at site.

12.8. Loss prevention measures

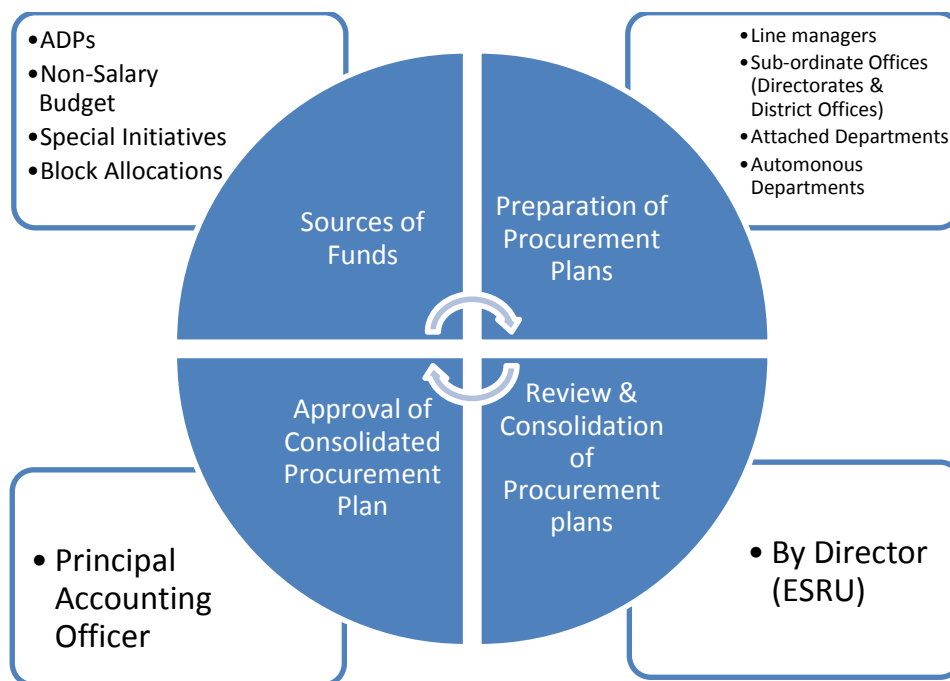
In order to ensure prevention of loss of assets, one or more of the following measures shall be adopted by the responsible office, wing, section and/or person of the department:

1. Ensure that all assets are clearly tagged with bar codes.

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2. Using engraver, engrave the words "Government Property, the name of the department and an identification code number".
3. Office machines may be cabled or bolted and locked to the employees' desks and stands to ensure a sufficient amount of protection.
4. A security room, closet, or cabinet with locking capabilities may be used to store any item(s) considered vulnerable to theft.
5. No asset shall be allowed to move out of an office unless prior approval of the competent authority is duly obtained on a proper Gate Pass which shall invariably accompany the asset in question.
6. For internal control purposes, concerned offices/wings of the department may assign a responsible person to ensure safety, upkeep and maintain record of assets and to perform interim counts physically. The officer/official shall be duly notified by the respective office and on transfer or change of charge shall duly notify the new officer/official responsible for the task.
7. Periodic review of security needs by respective offices/wings/sections.

Procurement Planning Cycle



Procurement Cycle of E&SE Department

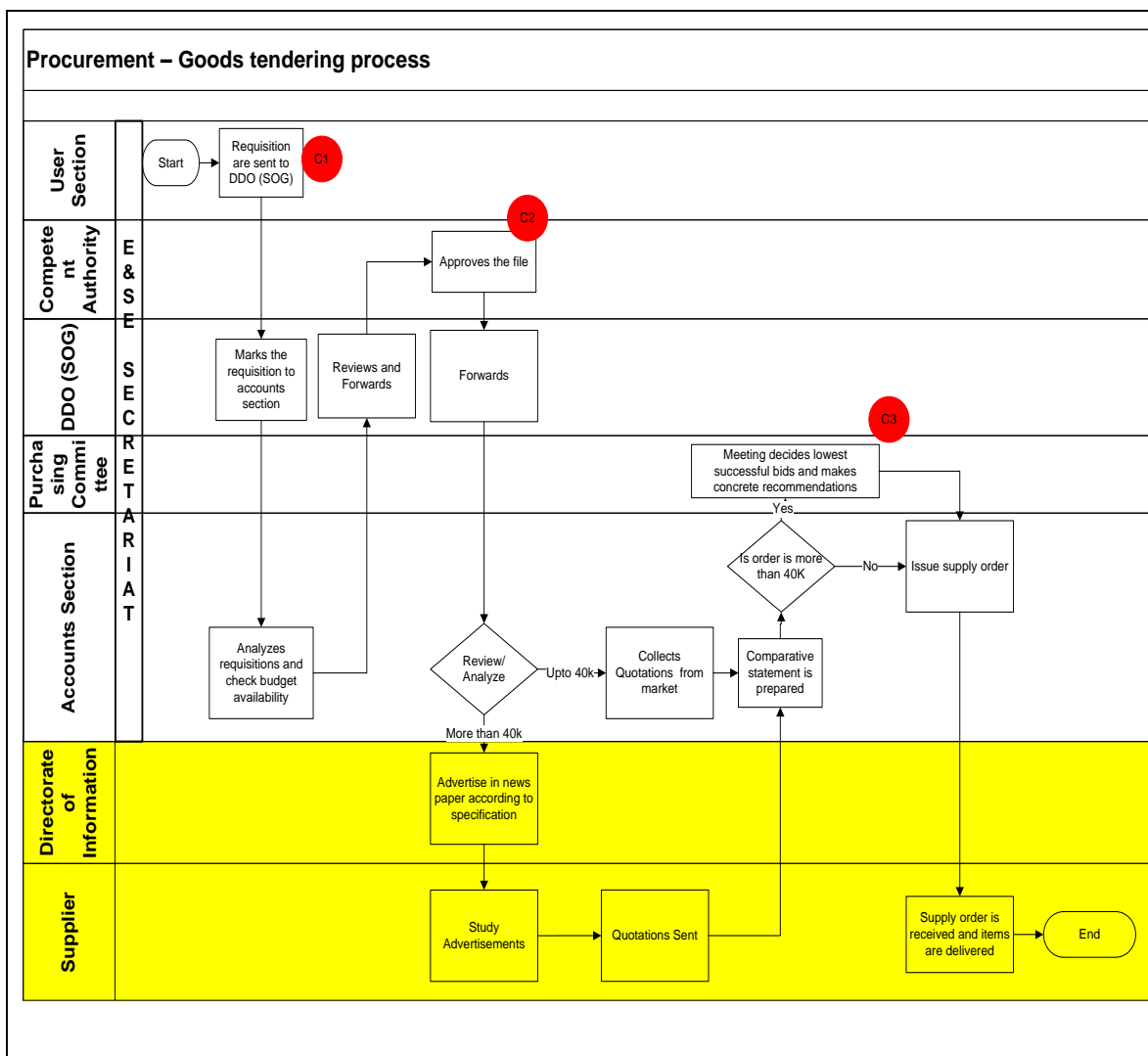


Annexure 2

Template for Comparative Statement

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Procurement of Goods

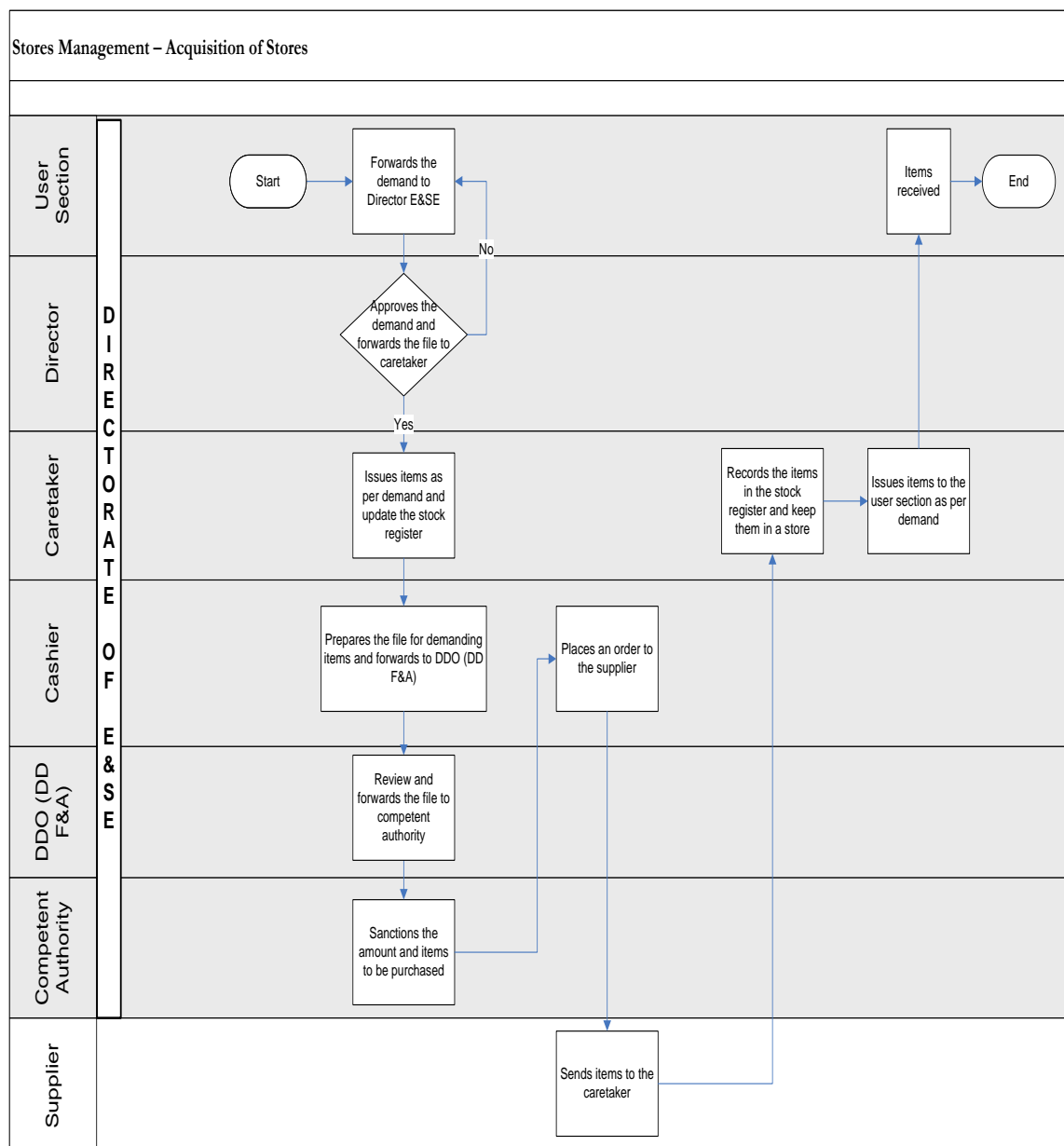


Process is initiated on receipt of demand for good or service by user section's authorized officer, the job of administration is to check whether the requisitioned good is not available in store or service cannot be made available otherwise besides processing the case as per procurement rules i.e., to purchase from market, or purchase on the basis of quotations or on the basis of open tender through press. When bids are received, these opened in the presence of purchase committee members who sign the bids received and scrutinize preliminarily; after which comparative statements are prepared and purchase committee consider the bids in accordance with rules and regulations; purchase committee make clear recommendations according to the criteria, any exception is correctly mentioned in the minutes of the meeting. The recommendations of purchase committee are submitted to the competent authority, and after securing the approval, orders are placed.

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Annexure 4

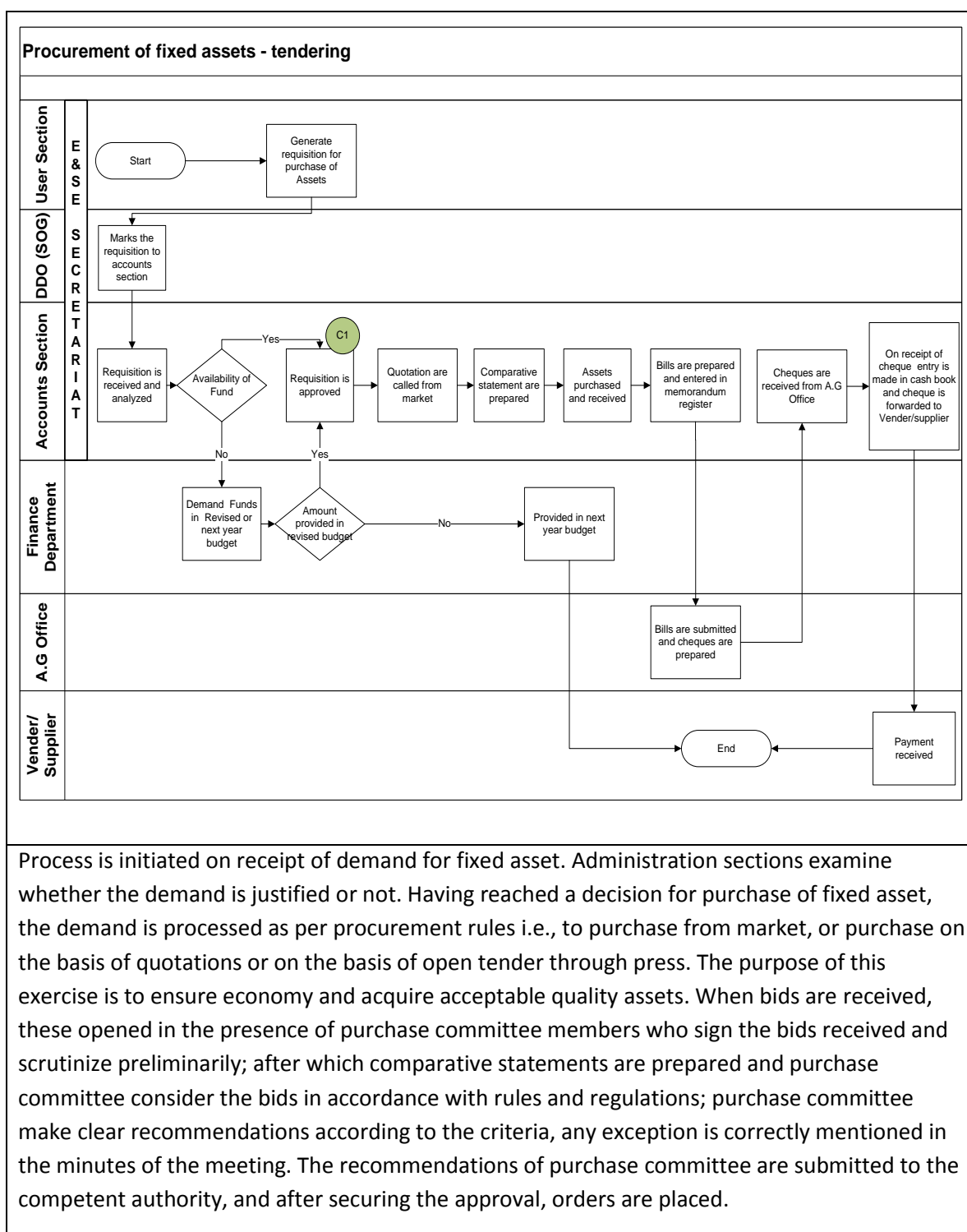
Acquisition of Store items



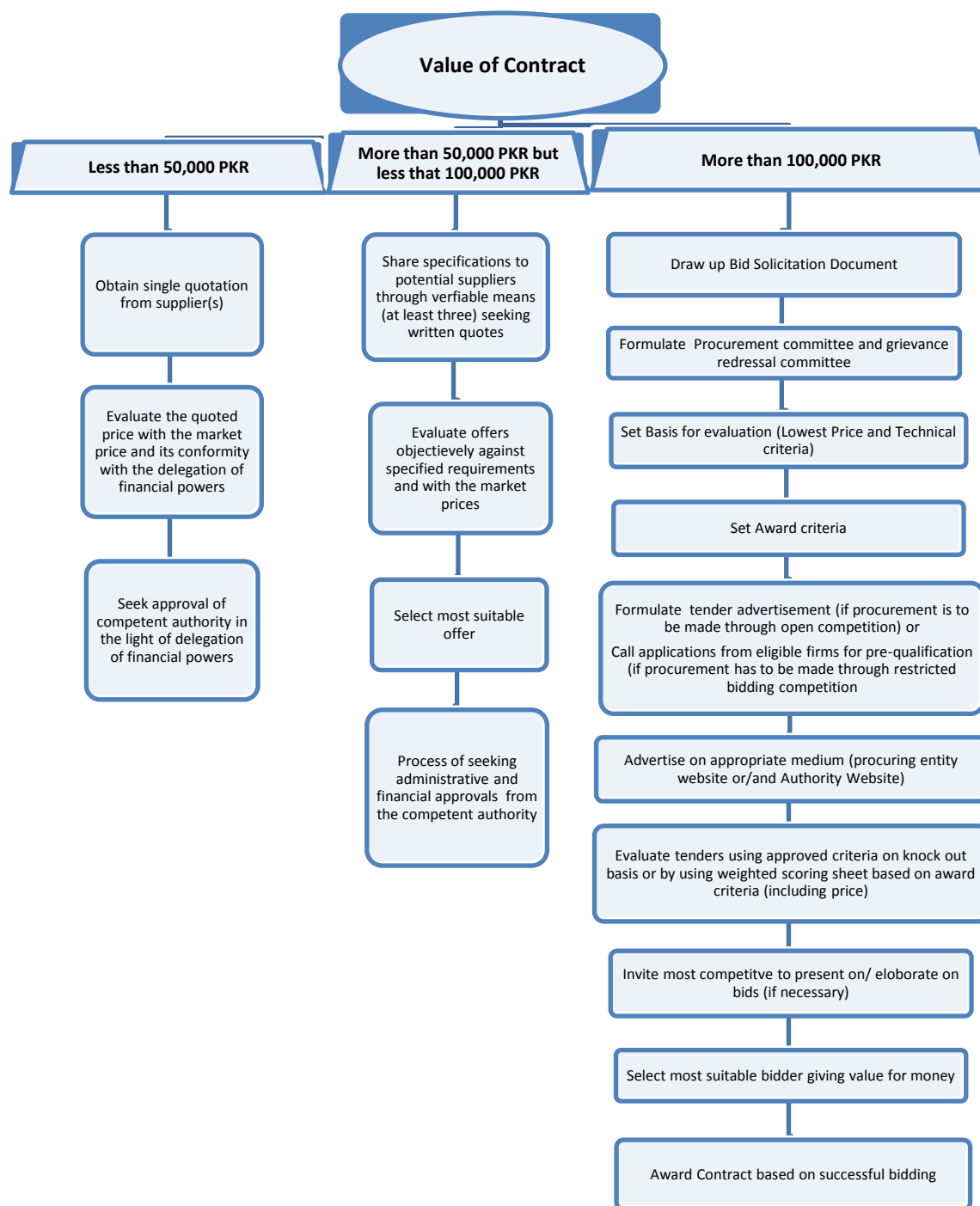
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Annexure 5

Procurement of Fixed Assets



Procurement process sequence under KP-PPRA Rules 2014



KHYBER PAKHTUNKHWA PUBLIC PROCUREMENT AUTHORITY ACT 2012

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EXTRAORDINARY

REGISTERED NO. PIII

GOVERNMENT

GAZETTE



KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 20TH SEPTEMBER, 2012.

PROVINCIAL ASSEMBLY SECRETARIAT,

KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 20th September, 2012.

No. PA/Khyber Pakhtunkhwa/Bills/2012/6059-The Khyber Pakhtunkhwa Public Procurement Regulatory Authority Bill, 2012 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 3rd September, 2012 and assented to by the Governor of the Khyber Pakhtunkhwa on 16th September, 2012 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

The Khyber Pakhtunkhwa public procurement regulatory authority act, 2012.

(Khyber Pakhtunkhwa act no. XI of 2012)

(first published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa (Extraordinary), dated the 20th September, 2012)

As amended vide the Khyber Pakhtunkhwa Public Procurement Regulatory Authority (Amendment) Act No. XXX of 2016

AN

ACT

*to provide for the legal and regulatory framework
for public procurement.*

WHEREAS it is expedient to provide for the legal and regulatory framework for public procurement, and other matters connected therewith or incidental thereto,

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for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. Short title, extent and commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012.

(2) It extends to the whole of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.—(1) In this Act, unless there is anything repugnant in the subject or context,–

- (a) “Authority” means the Khyber Pakhtunkhwa Public Procurement Regulatory Authority established under section 4;
- (b) “bidder” means a contractor, supplier, vendor or consultant who offers his services for procurement of goods works, or services in response to bid solicitation by a procuring entity;
- (c) “best evaluated bid” means,–
 - (i) in case for procurement of goods and services, the highest ranking fair bid in accordance with the evaluation criteria set forth in the bid solicitation documents;
 - (ii) in case of procurement of works, the lowest responsive evaluated bid will be the ‘best evaluated bid’;
- (d) “bidding” means the formal procurement procedure 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 standard bidding documents for solicitation of bids;
- (g) “Board” means the Board of Directors of the Authority;
- (h) “Chairperson” means the Chairperson of the Board;
- (i) “consultant” means a person, a firm, a company or an organization undertaking supply of services;
- (j) “contract” means a contract as defined in the Contract Act, 1872;
- (k) “goods” means articles and objects of every kind and description including raw materials, intermediate inputs, finished goods, products, equipments, computers, machinery, spare-parts 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;
- (l) “Government” means the Government of the Khyber Pakhtunkhwa;
- (m) “Managing Director” means the Managing Director of the Authority;
- (n) “mis-procurement” means public procurement in contravention of any of the provision of this Act or any other law in respect of or relating to public procurement, including any rules, regulations, orders or instructions made in this behalf and for the time being in force;

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- (o) “prescribed” means prescribed by rules made under this Act;
- (p) “procurement object” means goods, works or services to be procured by a procuring entity through public procurement process;
- (q) “procuring entity” means-
 - (i) a Department or any Office of Government including a project unit; or
 - (ii) any Board, Commission, Council or other bodies established by or under a provincial law; or
 - (iii) semi-autonomous or autonomous bodies which are owned or controlled by Government;
- (r) “province” means the Khyber Pakhtunkhwa;
- (s) “public procurement” means acquisition, temporary or permanent or on lease, of goods or services, or undertaking of works by contractual means, financed wholly or partly out of Fund by any procuring entity;
- (s-i) “regulations” mean regulations made under this Act;^[1] Ins:
- (t) “responsive” means conformity of a bid/technical proposal submitted by the prospective bidders to the statement of requirements in terms of section 24 of this Act;
- (u) “rules” means the rules made under this Act;
- (v) “services” means any object of procurement which does not constitute procurement of works or goods and includes consulting services;
- (w) “standard bidding documents” means the format/forms approved and notified by the Authority for submission of proposals and bids by the bidders in a public procurement process; and
- (x) “works” means any constructional work consisting of erection, assembly, repair, renovation or demolition of a building or structure or part thereof, such as 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.

(2) Words, expressions and terms not specifically defined in this Act and the rules shall have the same meanings as attributed to them in the relevant trade and industry practices.

3. General principles of public procurement.—All public procurement shall be conducted in such a manner as provided in this Act, rules and regulations made under this Act and shall promote the principles of transparency, economy, value for money, accountability and swift grievance handling.

4. Establishment of the Authority.—(1) Soon after the commencement of this Act, Government shall by notification in the official Gazette establish an Authority to be known as Khyber Pakhtunkhwa Public Procurement Regulatory Authority with its headquarters at Peshawar.

^[1] Ins: Inserted vide The Khyber Pakhtunkhwa Public Procurement Regulatory Authority (Amendment), Act No. XXX, 2016 via Notification No. PA/Khyber Pakhtunkhwa/Bills/2016/16900 dated Peshawar, the 15th December, 2016.

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(2) The Authority shall as soon as possible establish its own secretariat and may set up its regional offices in such place or places in the Khyber Pakhtunkhwa, as it may deem appropriate.

(3) The Authority shall be a body corporate, having perpetual succession and a common seal, with power to acquire and hold property and to enter into contracts, and may by the said name sue and be sued, and shall exercise all powers necessary for the purposes under this Act.

5. Powers and Functions of the Authority.---The Authority shall perform functions and exercise powers as follows:

- (a) hear and dispose of appeals against the orders of procuring entity;
- (b) formulate standard bidding documents, separately for procurement of Goods, Works and services, for all procuring entities to emulate as the format for bid solicitation documents for submission of proposals and bids by the bidders in a public procurement process;
- (c) shall assist the major procuring entities to engineer/re-engineer their business procedures and design their Procurement Manuals in compliance with this Act;
- (d) ensure that all the procuring entities organize and maintain a system for the publication of or posting on departmental official website of data on Public Procurement opportunities, awards and any other relevant information;
- (e) ensure that all procuring entities organize and manage database and web site which shall warehouse information and publications on public procurement;
- (f) conduct performance review based on pre-determined indicators and benchmarks through third party validation by State Bank of Pakistan certified category 'A' chartered accountant firm;
- (g) organize and manage capacity-building of procurement personnel in all the procuring entities in the Province;
- (h) conduct research and take measures to further principles of public procurement enunciated in this Act;
- (i) recommend to the Government, measures necessary to improve the quality of public procurement in the Province;
- (j) recommend to the Government, measures necessary to enhance transparency and ensure accountability in the public procurement process in the Province;
- (k) advise Government on all matters pertaining to public procurement;^[2]
- (l) lay down codes of ethics and procedures for procurement, inspection and quality of goods, services and works; and^[3]_{Ins:}
- (m) perform such other functions and exercise such powers as may be necessary to further objectives of this Act and perform such other

^[2] Del: Word "and" deleted vide The Khyber Pakhtunkhwa Public Procurement Regulatory Authority (Amendment), Act No. XXX, 2016 via Notification No. PA/Khyber Pakhtunkhwa/Bills/2016/16900 dated Peshawar, the 15th December, 2016.

^[3] Ins: Inserted vide The Khyber Pakhtunkhwa Public Procurement Regulatory Authority (Amendment), Act No. XXX, 2016 via Notification No. PA/Khyber Pakhtunkhwa/Bills/2016/16900 dated Peshawar, the 15th December, 2016.

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- functions as assigned by the Government from time to time^[4] Re-num:
6. **Management.**—The general directions and administration of the Authority and its affairs shall vest in the Board, which shall exercise all powers and do all acts, which may be exercised or done by the Authority, in accordance with the provisions of this Act.
7. **Board of Directors.**—(1) Government shall constitute a Board of Directors for the management and administration of the Authority consisting of,-
- (a) Secretary to the Government, Chairperson.
Finance Department;
 - (b) Secretary to the Government, Member.
Planning & Development Department
or his nominee not below the rank of an
Additional Secretary;
 - (c) Secretary to the Government, Member.
Works and Services Department or his
nominee not below the rank of an Additional
Secretary;
 - (d) Secretary to the Government, Member.
Irrigation Department
or his nominee not below the rank of an
Additional Secretary;
 - (e) Secretary to the Government of Public Member
Health Engineering Department or
his nominee not below the rank of an Additional
Secretary;
 - (f) Secretary to the Government, Member.
Health Department or his nominee
not below the rank of an Additional Secretary;
 - (g) three persons from the private sector Members.
i.e. from trade and industry,
academia, civil society and professional
associates;
 - (h) Managing Director of the Authority; Member/Secretary.
- (2) Government shall notify the terms and conditions for appointment of non-official members of the Board.
- (3) The non-official members shall be appointed by Government for a period of three years.
- (4) Six members shall constitute the quorum for convening meeting of the Board.
- (5) The meeting of the Board shall be presided over by the Chairperson and in his absence by one of the ex-officio Members to be nominated by the Chairperson in this behalf.
- (6) All decisions in the meeting shall be taken by majority of votes. Each member, including the Chairman, shall have one vote, but in the event of tie of votes, the Chairman shall have a second or casting vote.

^[4] Re-num: Renumbered vide The Khyber Pakhtunkhwa Public Procurement Regulatory Authority (Amendment), Act No. XXX, 2016 via Notification No. PA/Khyber Pakhtunkhwa/Bills/2016/16900 dated Peshawar, the 15th December, 2016.

8. Managing Director.—(1) Government shall appoint the Managing Director of the Authority for a period of three years on such terms and conditions as it may determine and may extend his appointment for a second term:

Provided that the entire period of appointment shall not exceed six years.

(2) The Managing Director shall be a senior civil servant of BS-20 or a reputed professional with fifteen years post-qualification experience, preferably in public procurement. However, no such person shall be appointed as Managing Director who has been:

- (a) convicted by a court of law; or
- (b) removed from any service on a charge of misconduct.

(3) The Managing Director shall be the Chief Executive and the Principal Accounting Officer of the Authority.

(4) In the performance of his functions, the Managing Director shall work within the framework of the general policy and guidelines laid down by the Board.

8-A. Delegation of powers.— The Authority may, subject to such conditions and limitations as it may deem appropriate, delegate any of its functions or powers, as the case may be, to the Managing Director^[5] Ins:

9. Establishment of the Authority Fund.—(1) There shall be a Fund to be known as Khyber Pakhtunkhwa Public Procurement Regulatory Authority Fund, hereinafter referred to as Authority Fund, which shall vest in the Authority and shall be utilized by the Authority to meet charges and expenses in connection with the affairs of the Authority under this Act including salaries and other remunerations of the non-official members and employees of the Board.

(2) The Authority Fund shall consist of all the money received by the Authority.

10. Custody and investment of the Authority Fund.—(1) The Board may keep the Authority Fund in any Scheduled Bank, as may be approved by it.

(2) Nothing in sub-section (1) shall be deemed to preclude the Board from investing any such moneys which are not required for immediate expenditure in any of the securities described in section 20 of the Trust Act, 1882 (Act No. II of 1882), or placing them in fixed deposit with a Bank approved by the Board or in such other manner as may be approved by it.

11. Maintenance of accounts.—The Board shall maintain complete and accurate books of accounts of its actual expenses and receipts in such form as the Government, in consultation with the Local Audit Department determined.

12. Audit.— The Authority shall cause to carry out the audit of its accounts by Auditor General of Pakistan provided that provision shall be made for an internal audit of the finances of the Authority.

13. Appointment of officers, advisors etc.---The Authority may, from time to time and subject to resources, appoint such officers, servants, advisers, consultants, referees and experts as it may consider necessary for performance of its functions. The Authority shall notify the procedure for appointments and fixation of terms and conditions after approval of the Board of Directors.

14. Responsibility of procuring entity.---(1) Each Procuring Entity shall be responsible for carrying out public procurement subject to the provisions of this Act,

^[5] Ins: Inserted vide The Khyber Pakhtunkhwa Public Procurement Regulatory Authority (Amendment), Act No. XXX, 2016 via Notification No. PA/Khyber Pakhtunkhwa/Bills/2016/16900 dated Peshawar, the 15th December, 2016.

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and the rules, the administrative instructions and the standard bidding documents made there-under:

Provided that-

- (i) Government on a specific request of the procuring entity or in public interest may exempt a procuring entity from some or all of the provisions of this Act for which reasons shall be recorded in writing. Government may seek comments of the Authority, if so required;
 - (ii) for District Governments, the procuring entity may route a justifiable case for exemption to the Government by the District Coordination Officer, through Secretary Local Government Department;
 - (iii) Government may exempt the procurement of an object or a class of objects, in national/public interest, from some or all provisions of this Act, for which reasons shall be recorded in writing; and
- (2) Government shall notify the exemption and publish the same for public consumption in the print^[6] Sub: media.

14A. Transparency, accountability and fairness.— All procurement shall be conducted in a manner which promotes transparency, accountability and fairness.

14B. Competition.— Except as otherwise provided for in this Act and the rules, all procurement shall be conducted so as to maximize competition and to achieve value for money:

Provided that the exception shall be made only for acquisition of services for reasons to be recorded in writing by the procuring entity.

15. Confidentiality.—(1) A procuring entity shall not, except when required to do so by an order of a Court, disclose any information if the disclosure would:

- (a) cause a breach of this law or any other law; or
- (b) impede law enforcement; or
- (c) prejudice legitimate commercial interests of the parties; or
- (d) inhibit fair competition; or
- (e) not be in public interest.

(2) A procuring entity shall not disclose any information relating to the contents of offers, pre-qualification submissions and actual content of bids, proposals or quotations other than in a summary form setting out the evaluation and comparison of tenders, proposals or quotations received before award of the contract. The format/forms for announcement of bids evaluation and determination of the best evaluated bid shall be prescribed.

16. Ethics.—(1) All procurements shall be carried out in accordance with such Code of Ethics as may be prescribed.

(2) Public officials as well as experts, engaged to deliver specific services in public procurement proceedings including evaluation of bids, shall be required to sign a Code of Ethical Conduct as may be prescribed.

(3) All vendor of goods, works or services shall be required to sign a

^[6]Sub: Substituted vide The Khyber Pakhtunkhwa Public Procurement Regulatory Authority (Amendment), Act No. XXX, 2016 via Notification No. PA/Khyber Pakhtunkhwa/Bills/2016/16900 dated Peshawar, the 15th December, 2016.

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declaration of compliance with such Code of Conduct as may be prescribed.

17. International Obligations.—Notwithstanding anything contained in this Act, the international obligations of Government arising out of bilateral or multilateral Agreements including Treaties, financing agreements, or agreements by Government shall continue to remain and be valid, binding and operative.

18. Preference and reservation.—(1) If an agreement in terms of section 17 provides for preference to national vendors, the procuring entity shall ensure that such preference is unambiguously stated in the standard bidding documents and announcements for the procurement including advertisement and terms of reference and tender documents.

(2) Each procuring entity shall permit prospective bidders to participate in procurement proceedings without regard to nationality, except where a procuring entity decides to limit such participation to national providers or participation of any nationality is forbidden by any law or by any instruction/policy of the Federal Government or other Provincial Government.

(3) If participation is restricted on the basis of nationality, the procuring entity shall record in the procurement proceedings a statement of grounds and circumstances relied upon.

19. Public Accessibility.—This Act, the rules made thereunder, guidelines, forms, bidding documents and/or decisions of Government or procuring entity relating to procurement shall be placed on a web-site of the Authority in addition to the website of the procuring entity or the Government, as the case may be, and which will also provide copies of these documents to the public at a fee not exceeding the cost of printing/reproduction of the documents.

20. Records.—(1) The procuring entity shall:

- (a) maintain detailed records of all procurement proceedings in the manner as prescribed; and
- (b) preserve, maintain and safeguard all relevant documents issued and received as shall be set out in the rules.

(2) The records of the procurement process of the procuring entity shall be open to internal and external audit or to procurement post-review in the prescribed manner or for scrutiny or inspection by Government or in accordance with any law.

21. Communication.—(1) All communications between a procuring entity and the bidder or vendor of procurement object shall be in writing.

(2) Forms of communication as well as the name of the focal person shall be specified in solicitation documents.

22. Procurement planning.—(1) Each procuring entity shall plan its procurements with due consideration to transparency, economy, efficiency and timelines, and shall ensure equal opportunities to all prospective bidders.

(2) All procurement requirements must be documented and approved by the procuring entity prior to commencement of procurement proceedings.

(3) In specified circumstances, a procuring entity may proceed with the procurement proceedings except for award of contract when the availability of funding in the full amount over the required period remains to be confirmed/approved by the competent authority:

Provided that the project has been approved or has received anticipatory approval from the competent authority/forum or is otherwise within the competence of the procuring entity and budget provision exists.

23. Bid Solicitation documents.—(1) A procuring entity shall adopt standard

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bidding documents designed under this Act and insert/add specifications into the standard bidding documents for each procurement.

(2) Bid solicitation documents shall specify in detail the terms and conditions, including a statement of general conditions of contract, which shall apply to the resultant contract.

(3) The general conditions of contract shall not be modified.

(4) Each procuring entity shall solicit bids based on performance or functional specifications and not on restrictive or proprietary specifications of a particular brand.

(5) A procuring entity may introduce special conditions of contract to elaborate and qualify the general conditions of contract, where applicable, furnishing detailed justification and reasons thereof, in the bid solicitation documents.

(6) Bid solicitation documents shall invariably include an unambiguous statement giving an accurate and complete description of the procurement objects to pursue the principles of public procurement enunciated in section 3 of this Act.

(7) Statement of requirements shall be in the form of technical specifications, terms of reference, scope of work, briefs or its equivalent as appropriate.

(8) Bid 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 mail.

(9) At any time prior to the deadline for submission of bids, the procuring entity may, on its own initiative or in response to a request for clarification by a bidder, modify the bid solicitation documents by issuing an addendum or corrigendum.

(10) If the procuring entity considers necessary, it may extend the closing date, after recording reasons in writing, to enable bidders to take the addendum or corrigendum, as the case may be, fully into account in preparing their bids.

(11) No change in the substance of bids, including changes in price, shall be sought, offered or permitted after the date and time of bid closing, except as otherwise provided for in the rules.

24. Submission of bids.—(1) A procuring entity shall require the bidders to submit sealed written bids or in such other manner, as may be prescribed.

(2) The method for submission of bids shall be determined by the type, complexity and evaluation method of the procurement in accordance with the rules.

(3) All announcements pertaining to public procurement shall specify the last date for submission of bids as well as the public bid opening which shall be the same.

(4) The bidding period shall be reasonable to allow bidders to prepare and submit their bids and shall not be reduced.

(5) A bidder may withdraw his bid at any time before the deadline for submission of bids, unless otherwise specified.

(6) To avoid delays, the procuring entity may hold a pre-bid conference with the prospective bidders if the procurement is of complex nature and high value.

25. Minimum qualification of bidders.—A procuring entity shall require all bidders to meet minimum qualification criteria to participate in public procurement to affirm/ensure that the bidder,-

- (a) has the legal capacity to enter into the contract;
- (b) has the prescribed technical proficiency, equipments/plant and/ or relevant certified experience;
- (c) is neither insolvent nor bankrupt;

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- (d) is not in the process of winding up nor his/her properties are under the control of receiver nor his/her business activities have been suspended nor legal proceedings for any of the foregoing are imminent or have been initiated against him/her; and
- (e) has fulfilled all obligations under law for the time being in force.

26. Enlistment and Pre-Registration.---For the enlistment and pre-registration, the following conditions should be adopted, namely:

- (a) enlistment and pre-registration shall be carried in a manner as may be prescribed;
- (b) provincial enlistment and pre-registration shall be undertaken by a committee which shall be chaired, steered, represented and coordinated by Works and Services Department, with representation from Irrigation Department and Local Government, Elections and Rural Development Department.

27. Best practices and industry standards.—Procuring entities shall at all times use industry standards defined and codified by internationally recognized trade associations and professional bodies in the appropriate fields in international bidding where available and local bidding where laid down.

28. Procurement process and evaluation.—For the procurement process and evaluation,-

- (a) the procurement system would allow a single stage single envelope, a single stage, two envelopes, a two stage single envelope and two stage two envelopes procedures depending on the nature of the procurement or as laid down in procurement rules made under this Act;
- (b) the rules shall prescribe the threshold and method for single source single quotation, request for quotations and open competitive procurement;
- (c) the methodology of evaluation shall be determined by the type, value and complexity of the procurement as may be prescribed by the Authority;
- (d) all bid solicitation documents shall fully and comprehensively detail the evaluation methodology and criteria relevant to the particular procurement;
- (e) contract shall be awarded to the bidder whose bid is responsive and is determined as the best evaluated bid ascertained on the basis of methodology and criteria mentioned in clause (d) above and in the definition; and
- (f) no evaluation criteria other than those stipulated in the solicitation documents shall be taken into account.

29. Disqualification and debarment of bidders.— (1) The procuring entity shall disqualify a bidder if it finds at any time that the information submitted concerning qualifications of the bidder was false, or materially inaccurate or incomplete.

(2) A procuring entity may debar a bidder from taking any further part in a procurement proceeding or in future procurement proceedings if the bidder-

- (a) forms part of a cartel/ring with a view to discourage fair competition in the bidding process; or
- (b) has failed to complete his earlier contract, within a period of three years of the initiation of procurement proceeding, on ground that his

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approved bid was or has become unprofitable or would result in his suffering of loss; or

- (c) offers or attempts to offer inducement of any sort; such baring actions will be duly publicized and communicated to the Authority.

30. Rejection of bids.---A Procuring Entity may reject any or all bids communicating the reasons for rejection in writing to the Authority at any time prior to the award of a contract.

31. Award of Contract.—The procuring entity shall award contract on the following conditions, namely:

- (a) the contract shall be awarded on the basis of the best evaluated bid;
- (b) the best evaluated bid shall be determined on the basis of total conformity to the evaluation criteria which may include quality or cost or both;
- (c) the procedure to determine the best evaluated bid under different methods of procurement and consequent award of contract shall be prescribed by the rules made under this Act;
- (d) the award of contract shall be made as per timeframe prescribed in the rules made under this Act;
- (e) a procuring entity shall complete evaluation of bids and award of contract within the initial period of bid validity to avoid the necessity of extensions;
- (f) an extension of bid validity, where inevitable, shall be requested only in exceptional circumstances as may be prescribed and shall always be sought in writing from all bidders before the expiration date; and
- (g) all contracts shall be confirmed through a written agreement signed by the successful bidder and the procuring entity, except as otherwise provided for in the rules.

32. Changes in bidders circumstances.—Any changes in the circumstances of the bidder during the procurement proceedings that could materially affect the capacity to execute the contract shall be immediately brought to the attention of the procuring entity by the bidder, other bidders or any other stakeholder.

33. Methods of procurement.—(1) The procuring entities shall resort to open competitive bidding as the preferred method of procurement.

(2) The selection of the procurement procedure shall be made in accordance with the rules, and shall be approved by the concerned procuring entity prior to commencement of any procurement proceedings:

Provided that the procuring entities may exceptionally use other methods, including negotiations, in the following eventualities in accordance with the rules to cater for:

- (a) procurements of small value through petty purchase or through request for quotations; and
- (b) procurements through direct contracting in an emergency caused by nature or governments, for urgent requirements caused by unforeseeable events, single repeat order not exceeding fifteen percent of the original procurement, for considerations of intellectual property, if price is fixed by a Government in the country or procurement from another procuring entity/public sector organization within Pakistan.

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34. Procurement Committees.---Procuring entities may constitute procuring Committees for procurement of goods, works and services.

35. Grievance Redressal Mechanism.---(1) Any bidder aggrieved by any act of the procuring entity may follow the two tier grievance redressal mechanism in the following manner:

- (a) file a complaint in writing to the head of procuring entity in accordance with prescribed procedure; and
- (b) file an appeal to the Authority against the decision of the procuring entity within fifteen days in accordance with the prescribed procedure.

(2) The decision of the Authority on appeal shall be final.

35-A. Power to make regulations.---The Authority may make regulations, not inconsistent to this Act or rules, for carrying out the purposes of this Act^[7]Ins:

35-B. Indemnity.---No suit, prosecution, or other legal proceedings shall lie against the Authority, the Board, the Chairperson Managing Director, officer, servants, advisers or consultants of the Authority in respect of anything done or intended to be done in good faith under this Act or rules and regulations^[8]Ins:

36. Power to make rules.---Government may make rules for carrying out the purposes of this Act.

37. Repeal.---(1) The Khyber Pakhtunkhwa Public Procurement of Goods, Works, Services and Consulting Services Ordinance, 2002 (Khyber Pakhtunkhwa Ord. No. XVIII of 2002) is hereby repealed.

(2) Notwithstanding the repeal of Khyber Pakhtunkhwa Procurement of Goods, Works, Services and Consulting services Ordinance, 2002 (Ord. No. XVIII of 2002), any public procurement initiated under the repealed law, shall, if not inconsistent with the provisions of this Act shall be executed and dealt with in accordance with the provisions of repealed law.

38. Removal of Difficulties.---If any difficulty arises in giving effect to any of the provisions of this Act, Government may, by notification in the official Gazette, make such provision as may appear to it necessary for the purpose of removing the difficulty.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

^[7] Ins: Inserted vide The Khyber Pakhtunkhwa Public Procurement Regulatory Authority (Amendment), Act No. XXX, 2016 via Notification No. PA/Khyber Pakhtunkhwa/Bills/2016/16900 dated Peshawar, the 15th December, 2016.

^[8] Ins: Inserted vide The Khyber Pakhtunkhwa Public Procurement Regulatory Authority (Amendment), Act No. XXX, 2016 via Notification No. PA/Khyber Pakhtunkhwa/Bills/2016/16900 dated Peshawar, the 15th December, 2016.

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EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P.III
G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 15th DECEMBER, 2016.

PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA.

NOTIFICATION

Dated Peshawar, the 15th December, 2016.

No. **PA/Khyber Pakhtunkhwa/Bills/2016/16900**— The Khyber Pakhtunkhwa Public Procurement Regulatory Authority (Amendment) Bill, 2016 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 6th December, 2016 and assented to by the Governor of the Khyber Pakhtunkhwa on 9th December, 2016 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA PUBLIC PROCUREMENT
REGULATORY AUTHORITY (AMENDMENT) ACT, 2016
(KHYBER PAKHTUNKHWA ACT NO. XXX OF 2016)**

*(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa.
(Extraordinary), dated the 15/12/2016)*

**AN
ACT**

*further to amend the Khyber Pakhtunkhwa Public Procurement Regulatory Authority
Act, 2012*

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012 (Khyber Pakhtunkhwa Act No. XI of 2012), for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. Short title and commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Public Procurement Regulatory Authority (Amendment) Act, 2016.

(2) It shall come into force at once.

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2. Amendment of section 2 of the Khyber Pakhtunkhwa Act No. XI of 2012.—In the Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012 (Khyber Pakhtunkhwa Act No. XI of 2012), hereinafter referred to as the said Act, in section 2, in sub-section (I), after clause (s), the following new clause shall be inserted, namely:

“(s-i) “regulations” mean regulations made under this Act;”.

3. Amendment of section 5 of the Khyber Pakhtunkhwa Act No. XI of 2012.—In the said Act, in section 5,-

- (a) in clause (k), the word “and”, appearing at the end, shall be deleted; and
- (b) the existing clause (1) shall be re-numbered as clause (m) and before clause (m), as so renumbered, the following new clause shall be inserted, namely:
“(1) lay down codes of ethics and procedures for procurement, inspection and quality of goods, services and works; and”.

4. Insertion of new section in the Khyber Pakhtunkhwa Act No. XI of 2012.—In the said Act, after section 8, the following new section shall be inserted, namely:

“8-A Delegation of powers — The Authority may, subject to such conditions and limitations as it may deem appropriate, delegate any of its functions or powers, as the case maybe, to the Managing Director.”

5. Amendment of section 14 of the Khyber Pakhtunkhwa Act No. XI of 2012.—In the said Act, in section 14, in sub-section (2), for the word “printed”, the word “print” shall be substituted.

6. Insertion of new sections in the Khyber Pakhtunkhwa Act No. XI of 2012.—In the said Act, after section 35, the following new sections shall be inserted, namely:

“35-A. Power to make regulations. — The Authority’ may make regulations, not inconsistent to this Act or rules, for carrying out the purposes of this Act”.

35-B. Indemnity.—No suit, prosecution, or other legal proceedings shall lie against the Authority, the Board, the Chairperson Managing Director, officer, servants, advisers or consultants of the Authority in respect of anything done or intended to be done in good faith under this Act or rules and regulations.”.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA
(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

*Printed and published by the Manager,
Staty. Prg. Dept., Khyber Pakhtunkhwa, Peshawar.*

[KHYBER PAKHTUNKHWA PUBLIC PROCUREMENT AUTHORITY
RULES 2014](#)

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GOVERNMENT OF THE KHYBER PAKHTUNKHWA **FINANCE DEPARTMENT**

NOTIFICATION

Peshawar, Dated the 3rd February 2014

No. SO (FR)/FD/9-7/2010/Vol-II--In exercise of the powers conferred by section 36 of the Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012 (Khyber Pakhtunkhwa Act No.XI of 2012), the Government of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

The Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules, 2014.

CHAPTER 1

GENERAL PROVISIONS

Short title and commencement.-- (1) These rules may be called the Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules, 2014.

(2) These shall come into force at once.

Definitions.-- (1) In these rules, unless there is anything repugnant in the subject or context,-

“Act” means the Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012;

- (a) “bid” means a technical proposal or a financial proposal or a technical and financial proposal submitted as a result of request for quotations, tender notice, request for proposal as the case may be;
- (b) “bid security/ surety/ guarantee” means a written guarantee from a third party guarantor usually a bank [deleted]⁹ submitted to a client by a contractor or bidder with a bid;
- (c) “borrower” means procuring entity;
- (d) “contractor” means a person, a firm, a company or an organization undertaking supply of goods, works or non consulting services;
- (e) “emergency” shall refer to situation that poses an immediate risk of loss, or has caused loss, or has high probability of escalating to cause immediate danger to health, life, property or environment as covered under the National Disaster Management Act, 2010 (Act

⁹ Words “or an insurance company” deleted, Vide Finance Department Notification No. SO (FR)/FD/9-7/2011/ Vol-II dated 11.08.2016.

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No. XXIV of 2010) and shall include natural calamities, disasters, accidents, war and breakdown of operational equipment, plant, machinery or engineering infrastructures, which may give rise to abnormal situation requiring prompt and immediate action to limit or avoid damage to health, life, property or the environment;

- (f) “grievance redressal mechanism” means the regulations/guidelines providing for grievance redressal process;
- (g) “non -consulting services” means the provision of independent expert advice of a quality at least equal to the applicable professional standards in relation to acquisition of goods, services other than consulting services and works;
- (h) “PEC” means Pakistan Engineering Council;
- (i) “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, in respect of:
 - (i) railways, aerodromes, bridges, tunnels and roads;
 - (ii) dams, canals, rivers, drains, harbors, lighthouses;
 - (iii) works of an electrical, mechanical, hydraulic, communication, aeronautical, power engineering, geological or mining character;
 - (iv) water works, sewers, filtration, purification and incinerator works;
 - (v) residential and non-residential buildings including foundations framework and electrical and mechanical systems thereof; and
 - (vi) structures accessory to engineering works and intended to house them;
- (j) “Province” means the Province of the Khyber Pakhtunkhwa;
- (k) “Public Fund” means--
 - (i) Provincial Consolidated Fund;
 - (ii) foreign assistance;

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- (iii) all moneys standing in the Public Account; and
- (iv) funds of enterprises wholly or partly owned or managed or controlled by Government;
- (l) “repeat order” means a fresh contract or order given directly to the same contractor or consultant without going into the normal procurement process, in accordance with the specified conditions and limits contained in these rules;
- (m) “request for proposal” means bidding document for soliciting technical and financial proposals for procurement of services;
- (n) “supplier” means a person, a firm, a company or an organization undertaking supply of goods, services or works;
- (o) “terms of reference” means defining and elaborating on the objectives and intended scope of services; and
- (p) “value for money” means 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 entity’s requirements.

(2) Words, expressions and terms not specifically defined in these rules shall have the same meanings as attributed to them in relevant trade and industry practices.

Applicability of these rules.— (1) These rules shall be applicable to all public procurements.

(2) Under following circumstances deviation from the requirements of advertisement and response time under these rules is permissible:

- (a) in cases of emergency as provided in the National Disaster Management Act, 2010 (Act No. XXIV of 2010), subject to the condition,--
 - (i) that all such procurements along with its emergent nature has to be recorded by the Procuring Officer and approved by the technical head of the procuring entity under intimation to the Principal Accounting Officer, Secretary at Provincial or Deputy Commissioner at District level;
 - (ii) that these have to be immediately intimated to the Accountant General Office or District Accounts Office, as the case may be;

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- (iii) that quantities in all such procurements shall be limited to the assessed requirement of emergency only; and
- (iv) that these shall be used only for procurements upto maximum for three months, which may be extended for such a period that Government may deem fit, depending on the nature of emergency;
- (b) the procurement of sensitive nature and related to National Security:

Provided that the direct sourcing of all such procurements shall be duly recorded; and

- (c) the direct sourcing to a government organization for provision of works, goods or services under a cost plus or fixed contract provided that the Public Sector Organization shall not involve a private sector enterprise as a partner or in the form of a joint venture or a sub-contractor. The government organizations shall be totally government owned and controlled or semi-autonomous and autonomous agencies under the administrative control of Federal Government or Provincial Government.

Language.—All documentation related to public procurements of entities shall be in English or Urdu.

Code of ethics and integrity pact.--- Procurement exceeding the prescribed limit shall be subject to an integrity pact, as specified by regulations/guidelines determined by Authority in consultation with procuring entities, between the procuring entity and the suppliers or contractors.

CHAPTER II

METHODS OF PROCUREMENT OF GOODS

Open tendering open competitive bidding as principal method of procurement.--

(1) Save as otherwise provided hereinafter and subject to the provisions of rule 10, the procuring entity shall use open competitive bidding as the principal method of procurement for the procurement of goods over the value of Rs. 100,000 (rupees one hundred thousand).

(2) The following procedures shall be permissible for open tendering, namely:

- a) *single stage, one envelope procedure.*-- this method should be used where cost is the only determining factor. Each bid shall comprise one single envelope containing financial proposal or offer and required information in accordance with the bid

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solicitation documents. This shall be the standard method of procurement of goods for simple and routine nature and where no technical innovation is involved;

- b) *single stage, two envelopes procedure.*-- this method shall be used where bids are to be evaluated on technical and financial grounds and price is taken into account after technical evaluation. Bid shall comprise a single package containing separate envelopes. Each envelope shall contain separately the financial proposal and technical proposal;

(3) In case of procurement of complex or specialized goods either of the two methods may be adopted,--

- (a) pre-qualification of prospective bidders and invitation of bids from the pre-qualified bidders; and
- (b) through single envelope two stage method post-qualification-
 - (i) in the first stage, each bid shall comprise of a single package containing envelope marked as technical proposal;
 - (ii) 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;
 - (iii) 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 or package clearly marked as financial proposal in bold and legible letters to avoid confusion; and
 - (iv) the lowest offer from the qualified bidder shall be accepted for award of the contract and will be the best evaluated bid.

Enlistment of suppliers.-- (1) A procuring entity may establish a mechanism for enlistment of suppliers for the purposes of procurement of goods and related services only in exceptional or complex cases where specialized goods, equipment and related services are required.

(2) The process of enlistment with such departments shall be open to all prospective bidders. Annual renewal for all such pre-registrations or enlistment shall be done on regular basis.

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(3) The enlistment forms shall be made available at the department's and authority's websites in addition to all possible outlets at nominal or preferably no cost.

(4) The enlistment or renewal with the relevant department shall be undertaken by a committee with five members with the chairperson being an officer of not less than BPS-19. Results showing the latest enlisted or renewed suppliers, those having rejected along with the recorded reasons for their rejection shall be made public within five days after the committee has concluded business in this regard.

(5) Enlistment shall not be deemed as pre-qualification or post-qualification.

Pre-qualification of suppliers.--(1) A procuring entity, in the first stage may pre-qualify bidders only in the following cases:

- (a) where total worth of contract exceeds Rs. 10 million; and
- (b) in cases of contracts for large and complex goods and related services, in which there are high costs of preparing detailed bids.

(2) The procuring entity may pre-qualify bidders by soliciting various details in accordance with sub-rule (1) of rule 8, and rule 36 of these rules.

(3) Pre-qualification of bidders shall be based entirely upon the capability, competence and resources of the bidders relevant to performance in the particular assignment, taking into account the following--

- (a) legal status along with proof of registration with one of the Federal or Provincial Registration Acts;
- (b) proof of being a taxpayer;
- (c) organizational profile, relevant experience, past performance, list of clients and references;
- (d) relevant experience and past performance;
- (e) existing capabilities with respect to human resource, personnel, computing and engineering equipment, machinery and plant, as may be the case;
- (f) financial position for the last three years including bank statements and audited reports by an external auditor;
- (g) proof of possessing appropriate managerial capability; and
- (h) 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.

(4) Qualified bidders shall be issued the tender documents.

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(5) For further process sub-rule (2) of rule 6 shall be followed.

Open tendering post-qualification.--(1) If bidding is not limited to pre-qualified firms, the procuring entity shall engage itself in post qualifying the bidders, in case of contracts of complex nature and valuing Rs. 15 million or above.

(2) 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.

(3) This shall be done prior to recommending contract award; the 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.

(4) In case the procurement committee is not satisfied with qualification based on the evaluation criteria resulting is not 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.

Alternate methods for procurement of goods.--- A procurement entity may use the following alternative methods for procurement of goods, namely:

- (a) procurement of goods upto Rs. 50,000/- may be undertaken by obtaining a single quotation through direct sourcing.
- (b) petty purchases between Rs. 50,000/- upto Rs. 100,000/- shall be procured through alternate method only if the following conditions are met, namely:

- (i) minimum of three quotations have been obtained:

Provided that if despite soliciting, less than three quotations are received it would be acceptable;

- (ii) request for quotation is sent to prospective bidders, simultaneously, with full contents and same information, which is duly acknowledged to be received;
- (iii) the closing time, date and address for submitting quotations has been clearly defined and adhered to;
- (iv) the object of the procurement has standard specifications;
- (v) in case, amount pertaining to applicable tax is not added in the quotation, comparison of price is made after adding amount of applicable tax; and

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- (vi) during comparison, each item should be compared to the corresponding respective specification and bid evaluated to the corresponding total cost of the bid;
- (c) a procurement entity shall only engage in alternate method if the following conditions exist, namely:
 - (i) repeat orders within a period of six months:

Provided that it does not exceed fifteen percent of the original contract value;

- (ii) in case of procurement through government organizations, in accordance with provisions of rule-3(2)(c) of these rules;
- (iii) where the procurement concerns the acquisition of spare parts or supplementary services from original manufacturer or supplier or sole distributor:

Provided that the same are not available from alternative sources;

- (iv) where the same goods are not available from alternative sources or only one contractor, manufacturer or supplier exists for the required procurement;
- (v) where a change of contractor or supplier would ensue 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, provided that the contract or contracts do not exceed three years in duration;
- (vi) where the price of goods is fixed by Government;
- (vii) where the motor vehicles or machinery is purchased from local original manufacturers or their authorized agents at manufacturer's price including transportation charges and other applicable taxes; and
- (viii) in case of emergency as defined in these rules and procurement specified under sub-rule 3(2)(a) and 3(2)(b):

Provided that the procurement entity shall specify appropriate forums vested with necessary authority to declare an emergency;

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- (d) a procuring entity may engage in negotiated tendering with one or more suppliers or contractors without prior publication of a procurement advertisement. This procedure shall be followed 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; and
- (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.

Method of advertisement.---(1) The procurement entity shall engage in open competitive bidding if the cost of the object to be procured is more than the financial limit which is applicable under rule 10 purchases upto Rs. 2.5 million, shall be posted on the procuring entity's website or public procurement regulatory authority (PPRA's) or both. These procurement opportunities may also be advertised in print media, if deemed necessary by the procuring entity.

(2) For all purchases, other than those being covered by the Khyber Pakhtunkhwa Procurement rules 3 and 10, shall be advertised in print media, appearing in at least one national English and one Urdu newspaper with nationwide circulation along with advertising the same either on the procuring entity or Authority website.

(3) A procuring entity utilizing electronic media shall ensure that the information posted on the website is complete for the 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.

Bid security.---(1) The procuring entity may require the bidders to furnish bid security of up to two per cent in case of procurement of goods, if required.

(2) In cases, where procurement is of complex nature, bid security up to 5 percent can be applied.

(3) Bid security shall be kept sealed in the financial proposal. In case of two stage two envelopes the bidder shall, in addition, keep an affidavit in the technical

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proposal stating that a bid security amounting to 2,3,4 or 5 percent, as may be the case without indicating the figure in the letter, has been placed in the financial proposal or bid. Otherwise the technical proposal will be considered non-responsive and will be returned to the bidder after being examined by the procurement committee.

Goods warranty.--Where possible, the procuring entity shall ask for a warranty from the supplier or contractor, for replacement or repair of the procured goods falling in the warranty period.

CHAPTER III

PROCUREMENT OF WORKS AND NON-CONSULTING SERVICES.

Open tendering open competitive bidding as principal method of procurement.--

(1) Save as otherwise provided hereinafter and subject to the provisions of rule 10, the procuring entity shall use open competitive bidding as the principal method of procurement for the procurement of goods over the value of Rs. 100,000/ rupees one hundred thousand.

(2) the following procedures shall be adopted for open competitive bidding:

(a) *single stage* – one envelope bidding,--the bid shall comprise of one envelope containing financial bid. 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;

(b) *single stage* – two envelope bidding,--

(i) this method shall apply to large and complex contracts;

(ii) bidders for this method shall be pre-qualified;

(iii) each bid shall comprise a single package containing two separate envelopes. Each envelope shall contain separately the technical proposal and the financial proposal;

(iv) the envelopes shall be marked as technical proposal and financial proposal in bold and legible letters to avoid confusion;

(v) the envelope marked as technical proposal shall contain:

(a) the experience and past performance in the execution of similar contracts;

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- (b) the capabilities with respect to personnel and construction equipments;
 - (c) the financial status and capacity; and
 - (d) any other information asked for by the procuring entity in the notice inviting tenders;
 - (vi) 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;
 - (vii) 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;
 - (viii) 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 unopened to the respective bidders; and
 - (ix) the bid found to be the lowest evaluated bid shall be accepted;
- (c) *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.

First stage:

- (i) the bid shall comprise a single package containing two separate envelopes. Each envelope shall contain separately the financial proposal and the technical proposal;

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- (ii) the envelopes shall be marked as financial proposal and technical proposal in bold and legible letters to avoid confusion;
- (iii) initially, only the envelope marked technical proposal shall be opened;
- (iv) the envelope marked as financial proposal shall be retained in the custody of the procuring entity without being opened;
- (v) the technical proposal shall be discussed with the bidders with reference to the procuring entity's technical requirements;
- (vi) those bidders willing to meet the requirements of the procuring entity shall be allowed to revise their technical proposals following these discussions; and
- (vii) 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.

second stage:

- (i) 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;
- (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 entity:

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

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technical proposal and to prepare the required supplementary financial proposal; and

- (iii) 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.

Enlistment.—(1) Enlistment shall not be deemed as pre-qualification or post-qualification.

(2) The process of enlistment shall be open throughout the year and any prospective bidders shall be allowed to apply for without any hindrance.

(3) Procuring entities shall decide the applicable nominal fee and the period of such pre-registrations, after which a renewal shall be necessary.

(4) Such enlistment/renewal with the relevant department shall be undertaken by a committee with five members with the chairperson being an officer of not less than BPS-19. Results showing the latest registered/renewed suppliers, those having rejected along with the recorded reasons for their rejection shall be made public within five days after the committee has concluded business in this regard.

(5) Criteria for enlistment shall be based on the evaluation of technical and financial worth i.e. works executed, indicating value of works, list of technical and other staff, plant/equipment along with the made and financial capacity.

(6) The criteria and list of enlisted bidders shall be posted on the department and Authority web-sites as well as on a notice board placed in the respective departments at an accessible site for public viewing.

(7) Bidding may be limited to enlisted bidders.

Pre-qualification of contractors.—(1) A procuring entity, in the first stage shall pre-qualify bidders for specific contracts in cases where total worth of contract exceeds Rs. 45 Million or a work irrespective of its worth is considered as complex.

(2) The procuring entity shall pre-qualify bidders by soliciting various details including but not limited to the following providing pass/fail thresholds, in accordance with the provisions of the Act and rules 17(1) and 34 of these rules.

- (a) legal status along with proof of registration with PEC and enlistment with the concerned provincial Government PE;
- (b) proof of valid or renewed relevant registration;
- (c) proof of being a taxpayer;
- (d) organizational profile, relevant experience, past performance, list of clients and references;
- (e) existing capabilities with respect to technical personnel, computing and engineering equipment, machinery and plant as may be the case;
- (f) financial position for the last three years including bank statements and audited reports by an external auditor;

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- (g) proof of possessing appropriate managerial capability; and
 - (h) 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 the Act and these rules.
- (3) Bidding shall be limited to pre-qualified firms.
 - (4) Qualified bidders shall be issued the tender documents.
 - (5) For further process sub-rule (2) of rule 6 shall be followed.

Open tendering post-qualification of contractors.--- (1) In case of contracts costing between Rs. 2.5 million to Rs. 45 million, the procuring entity may choose to call for bids with the condition of post-qualification provided in the bidding documents.

(2) The post-qualification criteria provided in the bidding documents shall be based on the evaluation of technical and financial worth i.e. works executed, indicating value of works, list of technical and other staff, plant or equipment along with the make and financial capacity.

(3) Bidding documents shall be made available to all interested bidders.

(4) The qualification of the lowest evaluated responsive bidders shall be checked to ensure whether or not the bidder is qualified to perform the works.

(5) If the lowest evaluated responsive bidder is not found to be qualified on all the post-qualification criteria provided in the bidding documents, its bid shall be rejected.

(6) Credentials of the next lowest evaluated responsive bidders shall then be checked against all of the post-qualification criteria provided in the bidding documents, and the contract shall be awarded to the lowest evaluated responsive qualified bidder.

Alternate methods for procurement of works, and non-consulting services.--A procurement entity may use the following alternative methods for procurement, namely:

- (a) petty purchases,-- procurement of upto Rs. 50,000/- may be undertaken by obtaining a single quotation through direct sourcing;
- (b) request for quotations,-- procurement from Rs. 50,000/- upto Rs. 100,000/- shall be procured through alternate method only if the following conditions are met, namely:
 - (i) minimum of three quotations have been obtained, provided that if despite soliciting, less than three quotations are received it would be acceptable;

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- (ii) request for quotation is sent to prospective bidders, simultaneously, with full contents and same information, which is duly acknowledged to be received;
 - (iii) the closing time, date and address for submitting quotations has been clearly defined and adhered to;
 - (iv) the object of the procurement has standard specifications;
 - (v) in case, amount pertaining to applicable tax is not added in the quotation, comparison of price is made after adding amount of applicable tax; and
 - (vi) during comparison, each item should be compared to the corresponding respective specification and bid evaluated to the corresponding total cost of the bid;
- (c) Direct contracting,-- a procurement agency shall only engage in alternate method if the following conditions exist, namely:
- (i) where civil works are to be contracted and are a natural extension of an earlier or ongoing job and it can be ascertained that the engagement of the same contractor will be more economical and will ensure compatibility of results in terms of quality of works subject to limitation of repeat or variation order;
 - (ii) in case of procurement through government organizations, in accordance with provisions of rule-3(2)(c) of these rules;
 - (iii) where a change of contractor or 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, provided that the contract or contracts do not exceed three years in duration;
 - (iv) in case of emergency as defined in these rules and procurement specified under sub-rule 3(2)(a) and 3(2)(b), provided that the procurement entity shall specify appropriate forum vested with necessary authority to declare an emergency;
 - (v) subject to the conditions of contract, a procuring entity may, insure a variation order to a contractor to include works which were outside the original scope of works to ensure interests of Government and for reasons of economy, compatibility and efficiency provided that:
 - (a) the original contract is still in force;

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- (b) the procuring entity has satisfied itself for technical reasons that the placing of the variation order is cost effective;
- (c) the value of variation order is not more than fifteen percent of the original contract; and
- (d) there may be more than one variation orders as long as the total value of all the variation orders remains within 15 percent of the original contract.

Method of advertisement.--(1) The procuring entity shall engage in open competitive bidding if the cost of the object to be procured is more than the financial limit which is applicable under rule 10. Procurement from Rs. 100,000/- to Rs. 2.5 million shall be posted on the procuring entity's website or Authority website or both. These procurement opportunities may also be advertised in print media, if deemed necessary by the procuring entity.

(2) For all procurement, other than those being covered by rule 10 shall be advertised in print media, appearing in at least one national English and one Urdu daily newspaper with nationwide circulation along with advertising the same either on the procuring entity or Authority website or both.

(3) A procuring entity utilizing electronic media shall ensure that the information posted on the website is complete for the 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.

Bid security.--(1) The procuring entity may require the bidders to furnish bid security of two per cent in case of procurement of works, if required.

(2) The bid security shall be kept sealed in the financial proposal. In case of single stage two envelopes, the bidder shall in addition, place an affidavit in the technical proposal stating that a bid security amounting to 2 percent without indicating the figure in the letter, has been placed in the financial proposal or bid. Otherwise the technical proposal will be considered non-responsive and will be returned to the bidder after being examined by the procurement committee.

(3) The bid security will be returned to unsuccessful bidders after signing of the contract with the successful bidder.

(4) 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, the bid security of two percent (2%), as specified in sub-rule (1), of the successful bidder, shall not be returned. The successful bidder shall be required to deposit eight (8%), of the cost of the contract in the shape of an irrevocable bank guarantee.]*

* Substituted by the Finance Department Notification No. SO (FR)/FD/9-7/2011/Vol-II dated

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Performance guarantee.--The procuring entity may ask for a performance guarantee from the contractor, which shall not exceed 10 percent of the bid value, as would be specified in the standard bid solicitation documents or standard bidding document.

CHAPTER IV

PROCUREMENT OF CONSULTANCY SERVICES

Application of consultancy services rules.--These rules shall apply only to consulting services which are of an intellectual and advisory 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.

Systems for selection of consultants.--The selection system shall be determined by the procuring entity prior to the commencement of the process of selection of prospective consultants. Procuring entity may utilize one of the following systems for selection of consultants, namely:

- (a) **quality based selection (QBS)**,-- this system will be used for highly specialized and complex assignments, where quality is the only factor taken into consideration;
- (b) **quality and cost based selection (QCBS)**,---this system will be used where high quality is the prime consideration while cost is a secondary consideration;
- (c) **least cost**,--- this system will only be used for assignments of standard or routine nature, where well established practices and standards exist;
- (d) **single source or direct selection**,---subject to approval by head of the procuring entity, a procuring entity may engage in single-source procurement-
 - (i) the goods, construction or services are available only from a particular contractor or supplier, or a particular contractor or supplier has exclusive rights in respect of the goods, construction or services, and no reasonable alternative or substitutes exists; or
 - (ii) the procuring entity having procured goods, equipment, technology or services from a contractor or supplier, determines that additional supplies must be procured from that supplier or contractor for reasons of standardization or because of the need for compatibility with existing goods, equipment, technology or services,

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taking into account the effectiveness of original procurement in meeting the needs of the procuring entity, the limited size of the proposed procurement in relation to the original procurement, the reasonableness of the price and the unsuitability of alternative to the goods or services in question; or

- (iii) in cases of emergency;
 - (iv) for very small assignments valuing upto Rs. 500,000/-; and
 - (v) where only one consultant is qualified or has experience of exceptional worth; and
- (e) **fixed budget--** this system shall be used only when the assignment is simple, can be precisely defined and when the budget is fixed. The request for proposals shall indicate the available budget. Proposals that exceed the indicated budget shall be rejected. The ranking shall be based only on evaluation of technical proposals of the qualified bidders.

Criteria for eligibility of consultants.--The procuring entity shall not hire a consultant for an assignment in which there is possibility of conflict of interest. If a consultant has been engaged by the procuring entity to provide goods or works for a project, it shall be disqualified from providing consulting services for the same project. Similarly, consultant should not be hired for any assignment which by its nature, may be in conflict with another assignment of the consultant.

Expression of interest (EOI).--(1) A request for expression of interest shall be advertised, giving to the applicants at least two weeks for national competition and four weeks for international competition to submit their interest to provide consultancy services.

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

- (a) the name and address of procuring entity;
- (b) an appropriate description of the assignment providing scope of the intellectual and professional services required;
- (c) deadline and place of the submission of expression of interest; and
- (d) criteria for short-listing where required.

Criteria for short-listing of consultants.--(1) Whenever short-listing is deemed necessary, the procuring entity shall pre-determine criteria for short-listing. Except for single source, there will normally be a minimum of three consultants in the short-list,

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but there is no upper limit for number of candidates to be short-listed. However, if less than three candidates apply, their proposals may be considered on merit.

(2) The procuring entity while short-listing consultants may take the following factors into consideration, namely:

- (a) qualification;
- (b) general experience; or
- (c) specific experience, particularly of the last five years; or
- (d) any other factor that a procuring entity may deem relevant, not inconsistent with these rules.

(3) All applicants shall be informed whether or not they have been short-listed.

Request for proposals (RFP).---(1) The procurement entity shall make available to all the short-listed consultants, together with the request for proposals, all information on the equal opportunity basis.

(2) The procuring entity shall use a request for proposal for seeking proposals from the Consultants which shall include the following, namely:

- (a) **letter of invitation (LOI)**,---the letter of invitation shall mention the name and address of the procuring entity and shall state the intention of the procuring entity to enter into a contract for provision of consulting services;
- (b) **instruction to consultants**,---the instructions to consultants shall contain all necessary information that would help them prepare responsive proposals and shall bring as much transparency as possible to the selection system;
- (c) **terms of reference (TOR)**,---the terms of reference shall unambiguously define the objectives, goals and scope of the assignment besides conditions of contract. Terms of reference shall list the services and surveys necessary to carry out the assignment and expected outputs. It shall also include the evaluation criteria;
- (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**,---the procuring entity, depending on the circumstances, may use one of the following types of contract, namely:
 - (i) lump sum contract will be used mainly for assignments in which the content, duration of the services and the required output are unambiguously defined;

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- (ii) time based contract will be used when it is difficult to define the scope and the length of services;
- (iii) hourly or daily rates will 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) [Deleted]*
- (g) special provisions,--**the procuring entity may specify any other requirement related to the assignment or contract etc, where required.**

(3) The procuring entity will invite the prospective consultants to submit their technical and financial proposals in separately sealed envelopes. The procuring entity shall give deadline for submission of proposals. Consultants shall be given adequate time for preparing their proposals which shall not be less than [two weeks].**

Selection process of individual consultants.---(1) Individual consultants may not be required to submit proposals, and shall be selected based on their qualifications for the assignment.

(2) Individual consultants shall be selected by comparing the qualifications of at least three consultants among those who have expressed interest in the assignment or have been approached directly by the procuring agency. Individual consultants considered for the comparison of qualifications 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.

(3) An individual consultant may be selected on a single-source basis (with due justification) in exceptional cases; such as the following--

- (a) for a task that is a continuation of previous work that the consultant has carried out and for which the consultant was selected competitively;
- (b) in an emergency situation resulting from a natural disaster; and
- (c) when the individual is the only consultant qualified for the assignment.

* Words “The consultant shall submit a bid security at the rate of 2 percent of the consulting cost which shall be forfeited in case he refuses to sign the contract agreement” deleted by KPPRA Notification No. KPPRA/M&E/Estt:/2014-15 dated May 12, 2015.

** Substituted by KPPRA Notification No. KPPRA/M&E/Estt:/1-3/2015-16 dated Dec 15, 2015.

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(4) For key assignments, interviews may be set up, and invited candidates should be paid travel and subsistence, as needed. Capability of the candidates should be evaluated.

Professional liability of consultants.--(1) The consultant selected and awarded a contract shall be liable for consequence of errors or omissions on its part. The extent of liability of the consultant should be incorporated in the contract and in no case should it be less than remunerations excluding the out of pocket expenses, nor should the liability exceed twice the remunerations.

(2) **The procuring entity may demand insurance on part of the consultant to cover its liability as stated above, and necessary costs shall be borne by the consultant which shall be re-imbursed by the procuring entity as out of pocket expenses by the consultant.**

(3) The consultant shall be held liable for all losses or damages and short comings in deliverance etc, suffered by the procuring entity as a result of mis-conduct or inadequate services in performing the consulting services.

CHAPTER V

MISCELLANEOUS PROVISIONS

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 in accordance with section 22 of the Act.

Limitation on splitting or regrouping of proposed procurement.--A procuring entity shall announce in an appropriate manner, all proposed annual procurements and shall proceed accordingly without any splitting or regrouping of the procurements so planned.

Procurement committees.-- (1) Each procuring entity shall constitute committees, in accordance with delegation of financial powers, separately for procurement of goods, works and services.

(2) The committees shall have a representative each from the accounts or finance or planning sections of the procuring entity apart from others.

(3) A technical member shall be inducted from the relevant line department of Government or hired in all procurements of works or in exceptional cases, provided that procurement is technical and complex in nature.

Bid solicitation documents.--(1) A procuring entity shall apply bid solicitation documents as are applicable and are found consistent with the provisions of the Act

PROCUREMENT GUIDE

and rule 34 of these rules, till such time when standard bidding documents are developed and prescribed in accordance with provisions of the Act and the rules.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) In case where the procuring entity deem necessary may, keep a time period ending earlier than the closing date of tender or bid, for obtaining bid solicitation documents, provided that it is not less than the minimum response time provided in rule 34.

(7) In case of modification of solicitation documents by the procuring entity in accordance with section 23(9) of the Act, 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 days before the closing date. In case, the changes are substantial, the time for submission may be extended proportionately, by issuing timely intimation to all bidders.

Response time.---(1) 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 fifteen days for national competitive bidding and thirty days for international competitive bidding from the date of publication of advertisement or notice in the national newspaper.

(2) The response time shall be calculated from the date of first publication of the advertisement in a newspaper or posting on the web site, as the case may be.

PROCUREMENT GUIDE

(3) 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.

Bid validity.--(1) 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.

(2) 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 expiry date. Bidders consenting to extend their bid validity period shall also correspondingly extend the validity of their bid security.

(3) Counting of days of Bid validity period starts with the advertised date of submission of Bid. If Bid opening delays for some unforeseen circumstances and 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.

(4) 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.

Pre-qualification process.--(1) 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 or consultants to demonstrate their respective qualifications and any other information that the procuring entity deems necessary for pre-qualification.

(2) 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.

(3) 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.

(4) 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.

Submission of bids and bid opening.--(1) Bids shall be invited through a procuring officer of the procurement entity.

(2) A procuring entity shall require bidders to submit sealed written bids or in such other manner as may be prescribed in the solicitation documents.

PROCUREMENT GUIDE

(3) The procuring entity shall issue the bidder with a receipt showing the date and time when the bid was received.

(4) No bids or tenders received after the prescribed time and date in the solicitation documents or in accordance with subsequent corrigendum, shall be entertained.

(5) The method for submission of bids shall be determined by the type, complexity and evaluation method of the procurement in accordance with these rules.

(6) All announcements pertaining to public procurement shall specify the last date for submission of bids as well as the public bid opening which shall be the same.

(7) The bids, technical or financial as the case may be, 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.

(8) The name of the bidder, bid modifications, discounts or withdrawals, presence of bid security or affidavit as the case may be 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.

(9) No bidder shall be allowed to withdraw his bid till award of the contract or till bid is valid, whichever is earlier.

(10) A procuring entity may ask bidder for clarification of the bid to assist in the evaluation. To avoid delays, the procuring entity may hold a pre-bid conference with the prospective bidders at least five working days before the last day for submission of bids if the procurement is of complex nature and high value.

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 rule 45 of these rules.

Bid evaluation.— (1) All bids shall be evaluated in accordance with the evaluation criteria and other terms and conditions set forth in the bidding documents.

(2) For the purpose of comparison of bids quoted in different currencies, price shall be converted into a single currency specified in the bidding documents. The rate of exchange shall be the selling rate prevailing seven working days before the date of opening of the bids specified in the bidding documents, as notified by the state bank of Pakistan.

(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 issuance of notice for invitation of bids.

Discriminatory and difficult conditions.---Save as otherwise provided, no procuring entity shall introduce any condition, which discriminates between bidders or that is considered to be met with difficulty. In ascertaining the discriminatory or difficult

PROCUREMENT GUIDE

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.

Open tendering with international competition.--- 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 provisions of the Act complemented with the following provisions:

- (a) the tender documents shall be in English language;
- (b) the invitation to tender shall be in English language and shall be placed in a newspaper of sufficient circulation to attract foreign competition and may also be placed on international web pages famous for international bidding advertisement. In addition, a procuring entity may transmit such invitations to their embassies and trade representatives of potential supplier countries;
- (c) 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 thirty days;
- (d) technical specifications shall, to the extent compatible with national requirements, be based on international standards or standards widely used in international trade;
- (e) 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;
- (f) general and special conditions of contract shall be of a kind generally used in international trade; and
- (g) standard bidding documents (SBDs) for goods, works and services shall be used for international competitive bidding (ICB) as well.

Post bid negotiation.---Procuring entity may negotiate with the highest ranked bidder regarding methodology, work plan, staffing and special conditions of the contract. In case of consulting services the procuring agency shall not permit substitution of key staff, unless both parties agree that undue delay in selection

PROCUREMENT GUIDE

process makes such substitution unavoidable. Similarly, negotiations shall not seek changes in the rates quoted by the bidder. In case of failure of negotiations, the procuring agency may invite the second ranked bidder as per the evaluation report.

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 in accordance with section 35 of the Act and grievances redressal mechanism framed under the Act.

Blacklisting of suppliers, contractors and consultants.---(1) 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 Government . Such barring action shall be duly publicized and communicated to the Authority, provided that any contractor or consultant who is to be blacklisted shall be accorded adequate opportunity of being heard in person.

(2) The bidder will have a right to complain to the administrative Secretary of the procuring entity or to file an appeal to the Authority in accordance with section 35 of the Act and regulations or guidelines to be framed under it.

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 of a bid evaluation giving justification for acceptance or rejection of bids at least ten days prior to the award of a contract and place the same on its and Authority website.

Approval of contract award.---(1) 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 under the financial rules and the power of re-appropriation rules 2001, in an expeditious manner, so that the award can be notified before expiry of the bid validity period, without having to seek extension, in conformity with the provisions of section 31 of the Act and these rules.

(2) All contract awards shall be made public through publication on Authority website.

Rejection of bids.---(1) 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

PROCUREMENT GUIDE

request communicate to any contractor or consultant who submitted a bid or proposal, the grounds for rejection of all bids or proposals.

(2) The procuring entity shall incur no liability, solely by virtue of its invoking sub-rule (1) towards contractors or consultants who have submitted bids or proposals.

(3) Notice of the rejection of all bids or proposals shall be given promptly to all contractors or consultants that submitted bids or proposals.

Re-bidding.---(1) If the procuring entity has rejected all bids under rule 47 it may call for a re-bidding.

(2) 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.

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.

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 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 15 days after the letter of acceptance or 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.

Closing of contract.--(1) 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.

PROCUREMENT GUIDE

(2) 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.

(3) Relevant provision for closing of contract shall be a part of the bid solicitation document.

Record of procurement proceedings.--(1) All procuring entities shall maintain a record of their respective procurement proceedings along with all associated documentation.

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

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 public contract:

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 administrative department.

Mis-procurement.--Any breach of these rules shall account to mis-procurement and the person responsible for such breach shall be liable to be proceeded under the relevant law.

Repeal.-- The Khyber Pakhtunkhwa Procurement of Goods, Works and Services Rules, 2003 is hereby repealed.

**SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

NOTIFICATIONS

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

NO. AS (S) 3/ 240/2014-15/ 310-70
Peshawar dated the 6 /01/2015

To

1. ✓ All the Administrative Secretaries in Khyber Pakhtunkhwa.
2. Inspector General of Police, Khyber Pakhtunkhwa.
3. All Commissioners in Khyber Pakhtunkhwa.
4. All Deputy Commissioners in Khyber Pakhtunkhwa.

School & Literacy Dept

**SUBJECT: COLLECTION OF DUTY UNDER ARTICLE 22-A (b) OF STAMP ACT, 1899
(ON PROCUREMENT OF STORES AND MATERIALS).**

Dear Sir,

I am directed to refer to the subject and your attention is invited to this Department circular no. AS(S) 240-E/9974-10047, dated 30/04/2012 (copy enclosed). Various departments keep on making references as to whether stamp duty is to be collected on the item being procured or not, which indicates that in a number of cases stamp duty is not being collected causing huge loss to the Government exchequer.

I am directed to request you that on all purchases of stores i.e. stationary, vehicles, medicines, deadstock etc. 1% stamp duty is to be charged. In case the levy is not incorporated in agreement, the liability to pay stamp duty is on the department purchasing the store or material. I am further directed to request you to ensure the levy and collection of stamp duty on prescribed items.

(KHANZADA WAZIR)
ASSISTANT SECRETARY (STAMPS)
PH091- 9210984

Encls: No. & dated even:

Copy forwarded for information to the:-

1. Director General Audit Khyber Pakhtunkhwa Peshawar.
2. Private Secretary to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. Assistant Secretary (Receipt/DDO) Board of Revenue Khyber Pakhtunkhwa.
4. Director Treasury & Accounts Khyber Pakhtunkhwa with the request to direct all District Accounts Officers to implement the instructions of this Department in letter and spirit.

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE

REVENUE & ESTATE DEPARTMENT

No. AS (S) 240/E / 9974-10047

Peshawar dated the, 30/4/2012

To

1. All Administrative Secretaries in Khyber Pakhtunkhwa.
2. Inspector General of Police, Khyber Pakhtunkhwa.
3. All Commissioners in Khyber Pakhtunkhwa.
4. All District Coordination Officers in Khyber Pakhtunkhwa.
5. All District Officer (R&E)/Collector in Khyber Pakhtunkhwa.

Subject:-

CLARIFICATION REGARDING STAMP DUTY UNDER ARTICLE 22-A(b) (TO PROCURE STORE & MATERIAL) FINANCE ACT, 2007.

I am directed to refer to the subject and to say that a question was raised by the Audit Department on the non deduction of 1 % stamp duty on payment made to supplier of Vehicles. The matter was referred to Law Department for opinion to clarify whether imposition of 1 % stamp duty was in order or not. The opinion of Law Department is reproduced below for your information and compliance:- that *under Section 29 Clause (f) of the Stamp Act, 1899, in the absence of agreement to the contrary, the expense of stamp duty shall be borne in case of sale certificate, by the purchaser of the property to which it relates, means, that if no agreement to the contrary has been entered into between the parties in respect of purchase of property, then the stamp duty is to be paid by purchaser, irrespective of the fact that purchaser is Government Department. Therefore, in the instant case the purchaser is Government and no contract is made between the parties (in which if made, the Government could assign the payment of stamp duty to seller of the Vehicle), the liability to pay stamp duty comes upon the Government Department being purchaser of the vehicles. But as the Government has already been exempted from the levy of stamp duty under Section. 3 of the Stamp Act, 1899.*

I am directed to request you that in future for all purchases of Vehicle / Store & Materials written contracts / agreements be executed with seller / supplier and liability of payment of stamp duty may be clearly defined.

(KHANZADA WAZIR)
ASSISTANT SECRETARY (STAMPS)

Copy forwarded for information to the:-

1. Director General Audit, Khyber Pakhtunkhwa, Peshawar.
2. PS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.



GOVERNMENT OF PAKISTAN
NATIONAL ACCOUNTABILITY BUREAU
PDA COMPLEX BLOCK-III, PHASE-V, HAYATABAD
PESHAWAR

Investigation & Prevention
Wing

SAY NO TO CORRUPTION

No. 1/63/A&P/NAB (KP)/ 63
15 May, 2017

The Chief Secretary
Govt of Khyber Pakhtunkhwa
Civil Secretariat, Peshawar

Subject: BID OPENING, TECHNICAL EVALUATION

Various departments frequently write to this Bureau requesting to depute representative of NAB to participate in bid opening process as an observer. NAB HQ letter No. 6-4/10/ Misc/ A&P/NABHQ/2013-169/193 dated 16 Jan 2013 advised against such practice and requested the procuring agency to ensure the implementation procurement rules in letter and spirit. However, all departments and attached bodies are required to share documents of contract amounting to Rs. 50 million & above with this bureau under section, 33-C of National Accountability Ordinance (NADO, 1999).

It is therefore requested that all concerned departments and attached bodies may be directed to discontinue the practice of making requests to this Bureau for participation in future.

Addl Director (Staff)
For Director General
(Zahir Shah)
Ph No. 091-9217545

SOE-V

18/5/17

To: All Federal Secretaries / Heads of Departments
 ✓ Chief Secretaries / Provincial Heads of Departments /
 The Controller General Accounts

Subject: Policy Directives for Procurement & Payment Procedure in Government Departments

The Federal Board of Revenue has earlier issued instructions to all government departments to make purchases from the registered suppliers. However, it has been observed that in order to get purchase order from the government departments a large number of suppliers obtain sales tax registration but they do not comply with other legal requirements such as filing of returns, payment of due tax etc. thus causing huge loss of revenue.

2. It is pertinent to highlight that as per the policy of government FBR is committed to broaden the tax base and improve tax compliance in the country. To achieve this purpose, following policy directives have been approved in relation to procurement and payment procedure of the government departments by the federal government:

- a) A condition may be inserted in the tender notice that only registered suppliers, who are on Active Taxpayers List (ATL) of FBR, are eligible to supply goods/services to Government departments.
- b) The payment to the registered persons may be linked with the active taxpayer status of the suppliers as per FBR database. If any registered supplier is not in ATL his payment should be stopped till he files his mandatory returns and appears on ATL of FBR.
- c) The aforesaid two requirements shall not apply to petty purchases and purchases against quotations.

It is requested to circulate these guidelines to all subordinate / field offices for strict compliance.

14994
 08/9/15

Chief Secretary
 Govt of Khyber Pakhtunkhwa
 D.S. Rest
 MD KPPRA.



The above directives are being issued in concurrence with Public Procurement Regulatory Authority (PPRA).

(Tariq Hussain Shaikh)



KHYBER PAKHTUNKHWA
PUBLIC PROCUREMENT REGULATORY AUTHORITY
Add: 1st Floor, Directorate of Treasury & Accounts
Khyber Road Peshawar Ph: 091-9223462.

CIRCULAR:

No. AD(M&E)/Enf/KPPRA/1-1/2015-16: All the Government Depts./Procuring Entities in Khyber Pakhtunkhwa must ensure registration of Service Providing Firms with Khyber Pakhtunkhwa Revenue Authority (KPRA) for the purpose of Sales Tax on "Services" as applicable under Section 19 and Schedule II of Finance Act, 2013 (as amended from time to time), by inclusion of a condition for registration of the participating firms in Public Procurement with KPRA in their tender documents. Further, proof of registration by the participating firm must be provided to the Department/Procuring Entity when the Public Procurement process is initiated.

-Sd-
Managing Director
KPPRA
Peshawar, Dated the May 04, 2016

A copy is forwarded for information and necessary action to:

1. Additional Chief Secretary to Govt. of Khyber Pakhtunkhwa, Planning & Development Department.
2. All Administrative Secretaries, Govt. of Khyber Pakhtunkhwa.
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. All Vice Chancellors of Public Sector Universities in Khyber Pakhtunkhwa.
5. All Commissioners in Khyber Pakhtunkhwa.
6. The Accountant General, Khyber Pakhtunkhwa.
7. All Heads of Autonomous/Semi-Autonomous Organizations in Khyber Pakhtunkhwa.
8. DIG (Finance & Procurement), Police Department, Govt. of Khyber Pakhtunkhwa.
9. DIG (PCU), Police Department, Govt. of Khyber Pakhtunkhwa.
10. Director General, KP-Revenue Authority, Govt. of Khyber Pakhtunkhwa.
11. Director General, Audit Khyber Pakhtunkhwa.
12. PSO to Chief Secretary, Govt. of Khyber Pakhtunkhwa.
13. PSO to IGP, Police Department, Govt. of Khyber Pakhtunkhwa.
14. All Heads of Attached Departments in Khyber Pakhtunkhwa.
15. All Deputy Commissioners in Khyber Pakhtunkhwa.
16. All District Accounts Officers in Khyber Pakhtunkhwa.
17. Treasury Officer, Khyber Pakhtunkhwa, Peshawar.
18. PS to Managing Director (KPPRA), Govt. of Khyber Pakhtunkhwa.


Assistant Director (M&E)
KPPRA