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PUNJAB GOVT. GAZ. (EXTRA), JANUARY 7, 2022
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PART III

GOVERNMENT OF PUNJAB

DEPARTMENT OF FINANCE
(FINANCE PERSONNEL-II BRANCH)

NOTIFICATION

The 6th January, 2022

No. G.S.R. 02 /P.A.12/2019/S.60/2022.-In exercise of the powers conferred by section 60 of the Punjab Transparency in Public Procurement Act, 2019 (Punjab Act No. 12 of 2019), and all other powers enabling him in this behalf, the Governor of Punjab is pleased to make the following rules, namely:-

RULES

CHAPTER I

PRELIMINARY

- 1. Short title and commencement.** -(1)These rules may be called the Punjab Transparency in Public Procurement Rules, 2022.
(2) They shall come into force on and with effect from the date of their publication in the Official Gazette.
- 2. Definitions.** -(1)In these rules, unless the context otherwise requires, -
 - (a) “Act”means the Punjab Transparency in Public Procurement Act, 2019 (Punjab Act No 12 of 2019);
 - (b) “administrative approval”means a formal acceptance by the Administrative Department of a proposal to incur expenditure on procurement of goods or services or works initiated by or connected with the requirements of that Department;
 - (c) “Administrative Department” means the concerned Department of the Government of Punjab;

- (d) “appendix” means an appendix appended to these rules;
- (e) “bid security or earnest money deposit” in addition to the clause (e) of section 2, bid security (or earnest money deposit) is the amount to be obtained from the bidders, except from the exempted categories, to safeguard against a bidder’s withdrawing or altering its or his bid during the bid validity period in the case of Open Competitive Bidding or Limited Bidding. The amount of bid security shall generally be between two to five percent of the estimated value of the goods or services or works to be procured;
- (f) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party or the bidding procedure;
- (g) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (h) “competent authority” means the authority or officer to whom the relevant financial or administrative powers have been delegated under the Punjab Financial Rules, as amended from time to time, in respect of matters relating to procurement and approval of incurring expenditure thereon;
- (i) “conflict of interest” for procuring entity or its personnel and bidders is a situation in which a party has interests that may improperly influence that party’s performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations;

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- (j) “corrupt practice ”means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - (k) “disposal of public assets” means the transfer of ownership of public assets by way of sale through open auction;
 - (l) “e-Procurement Portal” means e-Procurement System established by the Government of Punjab for creation and publication of tenders and related documents by procuring entities, and for seeking online bids from the bidders.
 - (m) "Evaluation Committee" means a committee which shall look into the process of tender or bidding and evaluate the bid or proposal;
 - (n) "Form" means the form appended to these rules;
 - (o) “fraudulent practice” means any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - (p) “Head of Office” means. -
 - (i) a Gazetted Officer declared as such in the Delegation of Financial Powers under the Punjab Financial Rules, as amended from time to time; and
 - (ii) any other authority declared as such under any general or special orders of the competent authority;
 - (q) “National Competitive Bidding (NCB)” means a bidding process in which qualified bidders from within India only are allowed to participate;
 - (r) “obstructive practice” means deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to

investigators in order to materially impede investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation;

- (s) “Original Equipment Manufacturers (OEM)” means a company that manufactures and sells products or parts of a product that their buyer i.e. another company, sells to its own customers while putting the products under its own branding;
- (t) “Performance Security/Performance Bank Guarantee/Security Deposit” means a security provided to the procuring entity by the successful bidder to ensure due performance of the contract. Performance Security shall normally be for an amount in the range of 5% (five percent) to 10% (ten percent) of the value of contract as specified in the bidding documents depending upon the risks associated with the contract and ensuring that the procuring entity’s interest in all aspects are safeguarded;
- (u) “project proponent” means a legal entity or a person who submits a proposal under the Swiss Challenge Method as per section 37 of the Act;
- (v) “Proprietary Article Certificate (PAC)” means a certificate, signed by the authorized competent authority, against which goods are procured only from Original Equipment Manufacturers (OEMs) or manufacturers having proprietary rights (or their authorized dealers);
- (w) “public assets” includes any property- movable or immovable or tangible or intangible, owned by the Government of Punjab or its entity, wholly or partially, excluding financial instruments, and stores as defined

under the rules for the Condemnation and Disposal of Unserviceable or Surplus Stores of Punjab Financial Rules, as amended from time to time;

- (x) "Schedule" means the schedule appended to these rules;
- (y) "section" means the section of the Act; and
- (z) "State Level Empowered Committee (SLEC)" means the State Level Empowered Committee constituted by the State Government through notification under the chairmanship of the Chief Secretary, -
 - (i) for consideration or examination or approval of the project, received under the Swiss Challenge Method;
 - (ii) for approval of procurement whose estimated value is above rupees ten crore under Single Source Method; and
 - (iii) for disposal of public assets as required under rule 33 of these rules. It shall include Administrative Secretary from the Department of Finance, Department of Planning, Department of Public Works and the concerned Administrative Department:

Provided that for the Swiss Challenge Method, the Administrative Secretary of the Department of Science, Technology and Environment and the Department of Forests and Wildlife Preservation shall also be the members of State Level Empowered Committee:

Provided further that for the disposal of public assets, Administrative Secretary from the Department of Rural Development and Panchayats, Department of Local Government, Department of Revenue, Rehabilitation and Disaster Management; and Department of Housing and Urban Development shall

also be the members of the State Level Empowered Committee;

Provided further that in addition to the above provisos, the State Government may notify for inclusion of any other Department to be the member of the State Level Empowered Committee based on specific requirements.

(2) The words and expressions used in these rules but not defined, shall have the same meaning respectively assigned to them in the Act.

CHAPTER II

GENERAL PRINCIPLES OF PUBLIC PROCUREMENT

Section 6.

- 3. Documentary records of procurement proceedings and communication.** -(1) Subject to the provisions of section 6, all procuring entities shall, in addition to the records specified in sub-section (1) of the said section, maintain and preserve in safe custody the registers or databases as specified in Form 'A' in electronic and physical form as official records.
- (2) The total number of pages with page numbers contained in every register as specified in sub-rule (1) shall be duly certified by the Head of Office or the officer nominated by him before entering records therein and all such records shall be duly authenticated and verified by the competent authority at the end of each financial year.
- (3) All procurements and related records maintained by the procuring entity shall be subject to post audit by internal audit, statutory audit and any other agency, as may be notified by the State Government for this purpose.
- (4) Subject to the provisions of sub-section (3) of section 6 of the Act, the physical records shall be disposed off after the expiry of five years as per the procedure laid down in the

Punjab Financial Rules, as amended from time to time; provided that such records are stored electronically and there are no encumbrances or pending issues or court cases or tribunal proceedings, arbitration proceedings, vigilance cases, Departmental enquires, etc. with respect to such records.

- Section 7 (3) (d). **4. Recovery of payments by procuring entity.** -The procuring entity shall recover the payments made to the bidder or prospective bidder along with interest at the rate of 12% (twelve percent) per annum within 30 (thirty) days of issuance of a Notice by the procuring entity to the bidder or prospective bidder in Form 'B' and thereafter, in addition to the above rate of interest, shall attract penal interest at the rate of 1% (one percent) for every further delay of 30 (thirty) days.

CHAPTER III

PROCUREMENT PLANNING

- Section 8. **5. Determination of need for procurement.** -For the purpose of section 8 of the Act, the procuring entity shall determine the need for procurement as per the Performa specified in Form 'C' and the same shall be duly signed by the Head of Office before initiating any procurement.
- Section 9. **6. Annual Procurement Plan.** -(1) Subject to section 9 of the Act, the Administrative Department shall ensure that all the procuring entities within the Administrative Department shall prepare an annual procurement plan latest by 30th April of each year in Form 'D' and the same shall be published on the website of the Administrative Department and also on the State Public Procurement Portal latest by 15th May of each year.
- (2) The procuring entity shall prepare an Annual

Performance Review Report latest by 10th April of each year in Form 'E'.

(3) The Directorate of Procurement Policy and Enforcement (DPPE) shall review both the Annual Procurement Plan and Annual Performance Review Report of the procuring entities.

CHAPTER IV

PRE-TENDERING

Section 11. 7. **Time frame for processing.** -The time frame for all procurement activities or stages of the procurement process whether for goods or services or works shall be as per Appendix 1 (Goods), Appendix 2 (Works and Non-consulting services) and Appendix 3 (Consulting Services):

Provided that in case of any deviation in time frame, the procuring entity may extend the time frame with justification duly published on the State Public Procurement Portal along with a corrigendum, if any required, with the approval of the competent authority only in exceptional circumstances.

Provided further that the procuring entity may reduce the time frame of any procurement stage, except that for the submission of bids.

CHAPTER V

TENDERING

Section 12. 8. **Determining the description of the subject matter of procurement.**-(1) The procuring entity shall also consider, guidelines or instructions or policies issued by any other Department from time to time for determining the parameters and specifications for any particular subject matter of the procurement, having expertise of or dealing with that subject

matter of procurement or any instructions issued by the State Government to comply with such guidelines or instructions or policies issued by any other Department.

- Section 13 (3). **9. Participation of bidders.** - The procuring entity while limiting the participation of the bidders as per sub-section (3) of section 13, shall declare such limited participation in Notice Inviting Bid (NIB) giving the reasons thereof for such limitation and notify the same on State Public Procurement Portal.
- Section 14 (2) (e). **10. Conflict of interest.** -The conflict of interest shall be specified in the pre-qualification document or bidding document in case there is no pre-qualification.
- Section 16 (5). **11. Pre-qualification of bidders.** -(1)In complex technical requirements where capability of source of supply is crucial for the successful performance of the contract, besides considering techno-commercial suitability, it is necessary to ensure that competition is only among the bidders with requisite capabilities matching the challenges of the task. In such a situation a separate stage of pre-qualification bidding system may be considered.
- (2) Subject to sub-section (5) of section 16, the procedure for pre-qualification of bidder shall be as follows namely: -
- (a) the invitation for pre-qualification bidding shall be processed in the same manner as in open competitive bidding ensuring the widest possible coverage. The pre-qualification criterion and evaluation criterion shall be notified clearly in the pre-qualification bidding documents;
 - (b) the pre-qualification bidding documents shall also indicate a complete schedule of requirements for which the pre-qualification bidding is being done,

- including approximate likely quantities of requirements;
- (c) a minimum period of 21 (twenty-one) days may be allowed for the submission of pre-qualification bids;
 - (d) the pre-qualification criteria shall not be restrictive to any capable bidder, shall not lead to higher prices of goods or services or works and shall not vitiate fair competition among bidders to the detriment of the buyer's objectives. The pre-qualification criteria shall be carefully drafted for each procurement by the procuring entity with the approval of the competent authority for acceptance of the tender;
 - (e) the procuring entity shall evaluate the qualifications of bidders only in accordance with the pre-qualification criterion specified in the pre-qualification bidding documents;
 - (f) the procuring entity after evaluation shall finalize the short listing of bidders within a period of 15 (fifteen) days from the receiving of the bids and shall publish the particulars of bidders that are qualified on the State Public Procurement Portal;
 - (g) after the short listing of the pre-qualified bidders, the procuring entity shall publish the tender within 15 (fifteen) days for inviting the bids for procurement from pre-qualified bidders. In case bids are not invited within such period, fresh pre-qualification bidding shall be done; and
 - (h) in case of any deviation in time frame mentioned in clauses (c), (f) and (g), the procuring entity may extend the time frame with justification duly published on State Public Procurement Portal along

with a corrigendum, if any required, with the approval of the competent authority only in exceptional circumstances.

Section 18 (4). **12. Registration of bidders.** - The registration of bidders under section 18 shall be as per the procedure notified by the State Government from time to time.

Section 19. **13. Bidding documents.** -(1)The State Government shall, from time to time, as per section 19 and Schedule 1, notify Standard Bidding Documents (SBDs), as model bidding documents, for different kinds of procurement like goods, services and works or for different types of procurement methods mentioned in the Act, as may be required.

(2) The procuring entities shall, for the procurement under its consideration, prepare specific Bidding Document based on the notified Standard Bidding Documents:

Provided, where relevant Standard Bidding Documents have not yet been notified by the State Government, the procuring entity may either use an existing Standard Bidding Document or, develop the Bidding Document as per Schedule 1.

Section 21. **14. Pre-bid Clarifications.** -(1)A prospective bidder requiring any clarification may raise his query to the procuring entity on e-Procurement Portal or during the Pre-bid meeting if provided for. Request for clarifications sent through any other mode shall not be considered by the procuring entity. The procuring entity shall respond to any request for clarification, provided that such request is received prior to the clarification end date and time given in the bidding documents. Description of clarification sought, and the response of the procuring entity shall be uploaded for the information of the public or other bidders without disclosing

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the source of request for clarification.

(2) In case any addendum or corrigendum is issued with respect to pre-clarification, the bidders shall be given a minimum time period of 14 (fourteen) days for submission of bids from the date of issuance of such addendum or corrigendum.

Section 22. **15. Changes to bidding documents.** -The procuring entity after due approval of the competent authority shall publish a notice or addendum or corrigendum in Form 'F' on e-Procurement Portal stating the changes made in the Bidding Documents as per section 22 of the Act, and any extension in the time period for the bid submission or the postponement of subsequent stages of procurement procedure, if any, shall be updated in the Bidding Documents.

Section 23. **16. Procedure relating to submission, opening and evaluation of bids.** -Subject to section 23 of the Act, the procedure relating to submission, opening and evaluation of bids shall be as per Appendix 4.

Section 23. **17. Constitution of committees.** -The Head of Office shall constitute a single procurement committee as per section 23 and if need be, constitute sub-committees. In case, where the subject matter of procurement is above rupees one crore, the committee shall include an official from the State Account Service (SAS) cadre as a representative of Department of Finance.

Section 25. **18. Cancellation of the procurement process.** -The procuring entity shall record the reasons, in writing, for the cancellation of procurement process as per section 25 and shall also notify such decision on the State Public Procurement Portal.

Section 26 (3). **19. Procedure for Blacklisting.** -(1)The procuring entity shall make an assessment of the reasons for black listingas per sub-section (3) of section 26.

(2) Upon the ascertainment of reasons for blacklisting and with subsequent approval of the competent authority, the procuring entity shall issue a show cause notice for 15 (fifteen) days in Form 'G', duly incorporating the reasons for blacklisting.

(3) The bidder may either give his response in writing or through personal hearing if allowed by the competent authority of the procuring entity.

(4) On receiving the response in writing or through personal hearing or on expiry of period of show cause notice, whichever is earlier, the competent authority of the procuring entity shall take a decision and pass a speaking order on the blacklisting of the bidder and communicate the same to the blacklisted bidder and also publish on the State Public Procurement Portal for informing all the procuring entities.

(5) The Administrative Department shall designate and notify the Appellate Authority under sub-section (5) of section 26 and specify the same in the bidding documents.

(6) The blacklisted bidder may file an appeal within a period of 21 (twenty-one) days against the decision given under sub-rule (4) in Appendix 5.

(7) The Appellate Authority, upon filing of appeal, shall issue notice accompanied by copy of appeal, affidavit and documents, if any, to the respondents and fix the date of hearing of appeal.

(8) On the date of hearing, the Appellate Authority shall hear both the parties (blacklisted firm and the procuring entity) and shall dispose off the appeal within a period of 30 (thirty) days from the filing of appeal. In case the Appellate Authority is unable to dispose off the appeal within 30 (thirty) days, the reasons for the same shall be recorded in

the decision. The decision of the Appellate Authority shall be published on the State Public Procurement Portal and e-Procurement Portal.

(9) The procuring entity shall ensure that the list of all blacklisted firms is published on the State Public Procurement Portal and e-Procurement Portal.

CHAPTER VI

PROCUREMENT METHODS

Section 28 (4). **20. Choosing a method of procurement other than the open competitive bidding.** -The procuring entity or the competent authority or the Administrative Department, as the case may be, shall record the reasons and circumstances thereof in Form 'H', for choosing any procurement method as mentioned in sub-section (1) of section 27, other than the open competitive bidding.

Section 28. **21. Procedure for open competitive bidding.** -(1)open competitive bidding shall be the default mode of procurement where an attempt is made to attract the widest possible competition in a fair and transparent manner by inviting tenders through advertisement.

(2) The estimated value of procurement of goods under this method shall be above rupees two-lakh and fifty thousand and in case of procurement of works and services shall be above rupees five-lakh.

(3) Subject to sub-section (5) of section 28, advertisement of the bidding under this method shall be published by the procuring entity on the State Public Procurement Portal, on the Departmental website and through indicative publication in a newspaper, or any other method notified by the State Government from time to time.

(4) The procuring entity shall also post the complete bidding document on its website and on the State Public Procurement Portal to enable the prospective bidders to download the document.

(5) The preparation of bidding documents; and submission, opening and evaluation of bids shall be as specified in rules 13 and 16 respectively.

(6) The number of bidders qualifying in technical evaluation shall not be less than two:

Provided that in case of procurement of goods, atleast two bidders qualifying in technical evaluation shall be distinct Original Equipment Manufacturers.

Provided that in case of procurement of works or services, atleast two bidders qualifying in technical evaluation shall not be related to or have any controlling interest in, or common pecuniary interest with each other, or be a subsidiary or ancillary or sister concern to one another.

(7) In case the conditions provided in sub-rule (6) are not satisfied in the first bidding, the bidding process shall be cancelled and financial bids shall not be opened and fresh (second) bids may be invited with the same or modified criteria as may be decided by the procuring entity.

(8) In case the conditions provided in sub-rule (6) are not satisfied, in the second bidding, the bidding process shall be cancelled and financial bids shall not be opened and fresh (third) bids may be invited with the same or modified criteria as may be decided by the procuring entity.

(9) In case the conditions provided in sub-rule (6) are not satisfied in third bidding, the competent authority may decide to proceed with single bid, recording with proper justification the reason for the same in writing, and the same

Section 13 & 29
(2).

shall be published on the State Public Procurement Portal.

(10) In case of second or third bidding for the procurement of goods or works or non-consulting services, the procuring entity shall reduce the time period for submission of bids as provided in Appendix 1 and Appendix 2, respectively.

22. Procedure for limited bidding. - (1) Limited bidding shall be adopted in line with the Public Procurement Preference to Make in Punjab Order 2019, issued by the Government of Punjab, Department of Industries and Commerce (Controller of Stores), as amended from time to time.

(2) The method of limited bidding may be adopted when the estimated value of subject matter of procurement is upto rupees thirty lakh.

(3) The procuring entity shall issue an invitation to bid to all the potential bidders as specified in clause (a) of sub-section (2) of section 29.

(4) The procuring entity shall also publish the Notice Inviting Bid on the State Public Procurement Portal and Departmental website, clearly specifying the particular limitations of the bidders as decided by the procuring entity.

(5) The procuring entity shall give minimum two weeks' time for submission of bids.

(6) The number of bidders to be invited in limited bidding shall not be less than six, out of which atleast three bidders shall qualify in technical evaluation. In case less than three bidders qualify in technical evaluation, the bidding process shall be cancelled and financial bids shall not be opened and thereafter, the procuring entity may opt to invite bids through open competitive bidding method.

(7) Except for the conditions provided in sub-rules (1) to (5), the preparation of bidding documents; and submission, opening and evaluation of bids shall be as specified in rules 13 and 16 respectively.

Section 30 (1).

23. Single source procurement. -(1)If the procuring entity chooses to procure goods or services or works from a single source as per sub-section (1) of section 30, the reason for such decision shall be recorded as in Form 'H' after due approval of the competent authority and the same shall be published on the State Public Procurement Portal and Departmental website.

(2) In case the procuring entity chooses to procure goods from another single source like Original Equipment Manufacturer (OEM) or manufacturer having proprietary rights, in addition to a particular prospective bidder or a particular prospective bidder having exclusive rights with respect to subject matter of the procurement, as mentioned in clause (a) of sub-section (1) of section 30 of the Act, the procuring entity shall obtain a Proprietary Article Certificate (PAC) in Form 'I', from the concerned Original Equipment Manufacturer (OEM) or manufacturer having proprietary rights, duly issued or approved by an authority having power to issue such certificate. The procuring entity shall obtain a certificate from single source to the effect that the rates quoted by it to the procuring entity in a financial year, are identical or less than the rates quoted to other organizations or to any other State Government or Central Government or their entities in the same financial year.

(3) In case the value of the subject matter of procurement is above rupees ten crore, the case shall be referred for approval to the State Level Empowered Committee constituted as per clause (z) of rule 2.

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| Section 31 (2). | 24. Two stage bidding. - The procuring entity may choose to obtain bids in two stages in open competitive bidding or limited bidding as per the financial limits specified in sub-rule (2) of rule 21 and sub-rule (2) of rule 22, respectively. |
| Section 32 (2). | 25. Reverse auction. - The procuring entity may choose to execute reverse auction method as per procedure notified by the State Government from time to time. The reverse auction shall also include Electronic Reverse Auction as available on e-Procurement Portal and GeM Portal. |
| Section 33 (2.) | <p>26. Procedure for Request for quotations. -(1) Request for quotations (RFQ) shall be adopted for procurement of goods in the range of rupees twenty-five thousand and one to rupees two-lakh fifty thousand, and for procurement of works and services in the range of rupees twenty-five thousand and one to rupees five-lakh, for a particular requirement of the procuring entity as approved by the competent authority.</p> <p>(2) The procuring entity shall not adopt this method of procurement to split the demand into smaller quantities and procure the subject matter of procurement through multiple attempts within the same time period, except for the items required recurrently.</p> <p>(3) The quotations shall be invited from the maximum number of potential suppliers and shall not be less than three.</p> <p>(4) The competent authority shall carry out periodic review of such procurements to ensure that the demand is not split into small quantities for the sole purpose of avoiding the necessity of getting an approval from the higher authority required for sanctioning the purchase of the original demand or for avoiding open competitive bidding or other mode of procurement.</p> |

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- Section 33 (3). **27. Spot purchase.** - The spot purchase method shall be adopted as per sub-section (3) of section 33 and the purchase committee shall jointly record a certificate in Form 'J' duly authenticated by the competent authority. The financial limits for the same shall be in the range of rupees twenty-five thousand and one to rupees two lakh fifty thousand.
- Section 34 (2). **28. Procedure for Competitive Negotiations.**-(1) The competent authority shall constitute a purchase committee as per clause (a) of sub-section (2) of section 34, which shall record the reasons with justification, indicating that it shall not be in public interest to procure the subject matter of procurement through open competitive bidding or any other method of procurement, in Form 'H' duly signed by the members of the purchase committee and thereafter certified by the Administrative Department.
- (2) The procuring entity shall communicate in writing to the potential bidders, not being less than three, for procuring the subject matter of procurement.
- (3) Any requirements, guidelines, documents, clarifications or other information related to the competitive negotiations shall be communicated by the procuring entity to all the potential bidders or bidders, unless such information is specific or exclusive to that bidder.
- (4) The proceedings of the negotiations shall be recorded in writing by the purchase committee and shall be duly signed by the members of purchase committee and all the participant bidders or their representatives who participated in the negotiations.
- (5) After completion of negotiations, the procuring entity shall request all bidders present during negotiation proceedings to submit, a best and final offer with respect to all aspects of their proposals within the time period to be

specified by the purchase committee such that it shall not exceed by fifteen days.

(6) No negotiations shall take place between the procuring entity and bidders with respect to their best and final offers.

(7) The procuring entity shall ensure that the successful offer is the lowest or most advantageous offer.

(8) The procuring entity shall maintain the record of all the competitive negotiations related documents.

Section 35 (3). **29. Procedure for rate contract.** -The rate contract method of procurement shall be applicable only for the procurement of the subject matter of the procurement, as notified by the State Government, which shall be executed on demand of any procuring entity, by the Controller of Stores (COS) or any other Administrative Department as notified by State Government from time to time.

Section 36 (2). **30. Procurement under Government E-Market (GeM).** -
(1)The procurement of goods and services through GeM shall be as per the notification of the State Government issued from time to time.
(2) The procuring entity may ascertain the reasonableness of prices before placement of order using the Business Analytics (BA) tools available on GeM including the last purchase price on GeM, procuring entity's own last purchase price, etc.
(3) Demand for goods shall not be divided into small quantities to make piecemeal purchases to avoid procurement through (L-1) buying or bidding or reverse auction on GeM.
(4) The competent authority shall carry out periodic review of such procurements to ensure that the demand is not split into small quantities for the sole purpose of avoiding the necessity of getting an approval from the higher authority

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- required for sanctioning the purchase of the original demand or for avoiding open competitive bidding or other mode of procurement.
- (5) The procuring entity shall avail reverse auction option for any procurement wherever available on GeM Portal.
- Section 37. **31. Procedure for Swiss Challenge.** -Subject to sub-section (2) of section 37, the procedure for Swiss Challenge shall be as per Appendix 6.
- Section 27 (1) (I). **32. Procedure for Direct procurement without quotation. –**
- (1) Procurement up to the value of rupees twenty-five thousand, for off –the-shelf goods or services or works of simple and standard specifications only, may be made without inviting quotations or bids by direct procurement.
- (1) This method may be used when the requirement has not been covered in the procurement plan.
- (2) The requirement is to be determined by the procuring entity for the off-the-shelf goods or services or works of simple and standard specifications such as day to day needs of the office and field units. The purchase for any item undertaken under this method shall be made after proper survey of the market to ensure the reasonability of the prices or rates.
- (3) The competent authority shall carry out periodic review of such procurements to ensure that the demand is not split into small quantities for the sole purpose of avoiding the necessity of getting an approval from the higher authority required for sanctioning the purchase of the original demand or for avoiding limited bidding or open competitive bidding.
- (4) The procurement done by this method shall not exceed an annual ceiling of rupees one-lakh for each office.
- Section 17 (1) **33. Disposal of public assets.** -(1) Disposal of the public assets shall be done as per the policies or instructions notified from

time to time, by the Government of Punjab or any Department of the Government of Punjab from time to time.

(2) Any Administrative Department undertaking the disposal of public assets as defined in clause (w) of rule 2, shall constitute an Assets Disposal Committee for the disposal of particular public asset.

(3) Before disposing off a public asset, the Assets Disposal Committee shall take necessary approval from the competent authority, recording the reasons and circumstances in writing arising for disposal of such assets.

(4) There shall be a reserve price fixed for all the public assets to be disposed off and it shall be determined by the Assets Disposal Committee after proper evaluation through market survey or any other mode by which real or market value of the asset is ascertained and verified by the Assets Disposal Committee.

(5) Where the assessed or market value of the public asset to be disposed off is more than Rupees fifty crore, then the case shall be referred through Administrative Department to the State Level Empowered Committee for final fixation of reserve price along with reasons and recommendations of the concerned Administrative Department.

(6) The disposal of assets shall be done by way of e-auction through e-Procurement Portal or any other open auction mode adopted by the State Government notified from time to time.

(7) Due publicity shall be given for every auction to attract maximum bidders so as to get the highest value of the public asset to be disposed off. The purpose of disposal and public interest in disposing off the public asset shall be clearly mentioned in the advertisement.

(8) When more than three bids are received in an auction process, the bid with the highest value over and above the reserve price fixed for that public asset shall be selected.

(9) In case less than three bids are received in the initial (first) auction, the auction process shall be cancelled and fresh (second) auction shall be undertaken following the procedures mentioned in sub-rules (6), (7) and (8).

(10) In case less than three bids are received in the second auction, the auction process shall be cancelled and fresh (third) auction shall be undertaken following the procedures mentioned in sub-rules (6), (7) and (8).

(11) In case less than three bids are received for the third time, the Administrative Department may decide to proceed with less number of bids, recording the reasons for the same, which shall be published on State Public Procurement Portal:

Provided that where the assessed/market value of the public asset to be disposed off is more than rupees twenty-five crore, the State Level Empowered Committee may decide to proceed with less number of bids, recording the reasons for the same which shall be published on State Public Procurement Portal.

(12) Where the bids received in first auction, are of the value less than the reserve price fixed, the auction shall be cancelled and fresh (second) auction at the same reserve price shall be undertaken following the procedures mentioned in sub-rules (6), (7) and (8).

(13) If the value of the bids received in the second auction, is less than the reserve price fixed, the second auction shall also be cancelled and fresh (third) auction at the same reserve price shall be undertaken following the procedures mentioned in sub-rules (6), (7) and (8).

(14) If the value of the bids received in the third auction, is still less than the reserve price fixed, the Assets Disposal Committee may re-fix the reserve price on the basis of objective criteria notified from time to time, by the State Government or the concerned Department of the Government of Punjab. In case the reserve price fixed was more than rupees fifty crore, case for re-fixation of the reserved price shall be done by the State Level Empowered Committee.

34. Procurement for consultancy services. - (1) Procurement for consultancy services shall be done by a committee to be constituted by the Administrative Department.

(2) The procedure for procurement of consultancy services shall be as per Appendix 7.

CHAPTER VII

BID EVALUATION AND CONTRACTING

Section 39 (2). **35. Trials and sample testing.** -Subject to sub-section (2) of section 39, the procuring entity shall maintain the record of such trials as per the relevant laws and rules of the procuring Department, and the records of testing in the manner as notified by the concerned Department or the Government of Punjab.

Section 40. **36. Price Negotiations in a tender process.** -(1) Negotiations in a tender process shall only be undertaken as per the guidelines of the Central Vigilance Commission issued from time to time.

Section 41 (1). **37. Terms and conditions of contracts.** - The terms and conditions of the procurement contracts entered into shall be in accordance with the provisions of the Act and these rules and the conditions or general conditions of contract or special conditions of contract indicated in the bidding

documents.

- Section 42 (4). **38. Award of contract.** -(1) Subject to sub-section (4) of section 42, the procuring entity shall communicate the award of contract or work order to the successful bidder in writing through the Letter of Acceptance or Notice of Award or Acceptance of Tender, that its bid has been accepted and shall seek completion of the requirements including signing of any agreement or furnishing performance security within fifteen days from date of such communication. The time period may be extended in exceptional circumstances, subject to the approval of the competent authority of the procuring entity.
- (2) The communication of award of contract as stated in sub-rule (1) shall also be published on the State Public Procurement Portal.

CHAPTER VIII

STATE PUBLIC PROCUREMENT PORTAL

- Section 43. **39. State Public Procurement Portal.** - The State Government or any other Department, as may be notified by the State Government, shall establish the State Public Procurement Portal within three months from the date of commencement of these rules. The e-Procurement Portal shall be the functional part of the State Public Procurement Portal.

CHAPTER IX

APPEAL

- Section 49. **40. Form of appeal.** - (1) Any bidder or prospective bidder who is aggrieved that any decision, action or omission of the procuring entity is in contravention to the provisions of the

Act, or these rules or guidelines issued thereunder, shall file an appeal under sub-section (1) of section 49 within thirty days in Appendix 5 along with as many copies as there are respondents in the appeal.

(2) Every appeal shall be accompanied by an order appealed against, if any, affidavit verifying the facts stated in the appeal and proof of payment of fee in accordance with rule 41.

(3) Every appeal shall be presented to the officer designated by the procuring entity as Appellate Authority as per sub-section (3) of section 49 in person or through registered post or authorized representative.

Section 49.

41. Fee for filing appeal. -(1) The fee applicable for appeal shall be as notified by the State Government from time to time. The fee shall be paid in the form of bank demand draft/e-Challan/online mode or any other mode of payment as notified by the Government of Punjab, from time to time.

Section 49.

42. Procedure for disposal of appeal. -(1) The Appellate Authority, upon receipt of appeal, shall issue notice accompanied by copy of appeal, affidavit and documents, if any, to the respondents and fix the date of hearing of appeal.
(2) On the date fixed for hearing, the Appellate Authority shall, -

(a) hear all the parties to appeal present before him;
and

(b) peruse or inspect documents, relevant records or copies thereof relating to the matter.

(3) After hearing the parties, perusal or inspection of documents and relevant records or copies thereof relating to the matter, the Appellate Authority concerned shall pass an order in writing and provide the copy of order to the parties to appeal free of cost.

(4) The Appellate Authority shall dispose off the appeal within a period of thirty days from the date of its receipt. In case the Appellate Authority is unable to dispose off the appeal within thirty days, the reasons for the same shall be recorded in the decision.

(5) The order passed under sub-rule (3) shall also be published on the State Public Procurement Portal.

CHAPTER X

DISPUTE RESOLUTION MECHANISM

43. Dispute Resolution. -Disputes arising during the execution of contract shall be settled through amicable settlement by arbitration as per the Arbitration and Conciliation Act, 1996 (Central Act No. 26 of 1996) and the same shall be specified in the Bidding Document.

44. Repeal and savings. -(1) All regulations, orders, notifications, Departmental codes, manuals, by-laws, official memoranda or circulars relating to procurement of goods, services or works which are in force on the date of commencement of these rules, insofar as they are covered under these rules and are inconsistent with these rules are hereby repealed:

Provided that such repeal shall not affect the previous operation of such regulations, orders, notifications, Departmental codes, manuals, by-laws, official Memoranda or circulars, and the procurement process commenced before the commencement of these rules shall continue as per the provisions of such regulations, orders, notifications, Departmental codes, manuals, by-laws, official memoranda or circulars, as applicable to them.

APPENDIX 1

[See rule- 7]

Time frame for procurement activities in Open Competitive Bidding (NCB-Single stage two envelope) process for Goods

| Sr.No. | Procurement Stage | Time frame for National open Competitive Bidding (NCB) | | | Time frame for NCB |
|--------|--|--|--|--|--|
| | | Estimated Value of procurement in INR (Rs.) | | | more than |
| | | Up to Rs. 1 Cr. | > Rs.1 Cr. and up to Rs.10 Cr. | >10 Cr. up to Rs. 100 Cr. | Rs.100 Cr. |
| 1 | Issue of Bidding Document | Day of first publication of the Notification (T) | Day of first publication of the Notification (T) | Day of first publication of the Notification (T) | Day of first publication of the Notification (T) |
| 2 | Submission of Bids | T+21 | T+30 | T+30 | T+45 |
| | Submission of Bids (Second Bidding/Third Bidding) | T+14 | T+15 | T+15 | T+30 |
| 3 | Public opening of Technical Bids | T+21* (on last day of submission) | T+30* (on last day of submission) | T+30* (on last day of submission) | T+45* (on last day of submission) |
| 4 | Evaluation of Technical Bids by the evaluation Committee | T+36 | T+51 | T+60 | T+75 |
| 5 | Approval of the Technical evaluation report | T+40 | T+55 | T+67 | T+82 |
| 6 | Opening of Financial Bids | T+45 | T+62 | T+74 | T+89 |
| 7 | Evaluation including financials and recommendation for award by the evaluation Committee | T+50 | T+69 | T+81 | T+99 |
| 8 | Approval of the recommendations for award by the Competent Authority | T+55 | T+76 | T+88 | T+106 |
| 9 | Issue of Notification of Award | T+57 | T+78 | T+90 | T+108 |
| 10 | Signing of contract | T+72 | T+99 | T+111 | T+129 |

*The time may be changed depending on the queries from the Bidders and in case of issue of Clarification/Addendum/Corrigendum to the Bidding Document.

APPENDIX 2

[See rule- 7]

Time frame for procurement activities in Open Competitive Bidding (NCB-Single stage two envelope) process for Works and Non-consulting services

| Sr.No. | Procurement Stage | Time frame for National open Competitive Bidding (NCB) | | | Time frame for NCB more than Rs.100 Cr. |
|--------|--|--|--|--|--|
| | | Estimated Value of procurement in INR (Rs.) | | | |
| | | Upto 50 Lakh. | > Rs.50 Lakh Cr. and upto Rs.2 Cr. | >Rs. 2 Cr and uptoRs 100 Cr. | |
| 1 | Issue of Bidding Document | Day of first publication of the Notification (T) | Day of first publication of the Notification (T) | Day of first publication of the Notification (T) | Day of first publication of the Notification (T) |
| 2 | Submission of Bids | T+10 | T+15 | T+21 | T+45 |
| | Submission of Bids (Second Bidding/Third Bidding) | T+7 | T+14 | T+21 | T+45 |
| 3 | Public opening of Technical Bids | T+10* (on last day of submission) | T+15* (on last day of submission) | T+21* (on last day of submission) | T+45* (on last day of submission) |
| 4 | Evaluation of Technical Bids by the evaluation Committee | T+25 | T+36 | T+51 | T+75 |
| 5 | Approval of the Technical evaluation report | T+29 | T+40 | T+57 | T+82 |
| 6 | Opening of Financial Bids | T+34 | T+47 | T+64 | T+89 |
| 7 | Evaluation including financials and recommendation for award by the evaluation Committee | T+39 | T+54 | T+71 | T+99 |
| 8 | Approval of the recommendations for award by the Competent Authority | T+44 | T+61 | T+78 | T+106 |
| 9 | Issue of Notification of Award | T+46 | T+63 | T+80 | T+108 |
| 10 | Signing of contract | T+61 | T+84 | T+101 | T+129 |

*The time may be changed depending on the queries from the Bidders and in case of issue of Clarification/Addendum/Corrigendum to the Bidding Document.

APPENDIX 3

[See rule 7]

**Time frame for procurement activities in the process of
procurement of Consulting Services following Quality and Cost
Based Selection Method**

| Sr. No. | Procurement Stage | Time frame for National Open Competitive process of selection (QCBS) | |
|------------|---|---|--|
| | | Full Tech. Proposal (FTP) | Simplified Tech. Proposal (STP) |
| 1 | Issue of Request for Expression of Interest | Day of first publication of the Notification (T) | Day of first publication of the Notification (T) |
| 2 | Submission of Expression of Interests | T+21 | T+21 |
| 3 | Recommendation of the Shortlist Report by Evaluation Committee and preparation of the RFP | T+36 | T+31 |
| 4 | Approval of the Shortlist | T+41 | T+34 |
| 5 | Issue of RFP to the short listed firms | T+42 | T+35 |
| 6 | Receipt of Proposals | T+84 | T+63 |
| 7 | Public Opening of Technical Proposal | T+84* (on last day of submission) | T+63* (on last day of submission) |
| 8 | Evaluation of Technical Proposals by Evaluation Committee | T+104 | T+78 |
| 9 | Approval of the Technical evaluation Report by Competent Authority | T+109 | T+83 |
| 10 | Opening of Financial Proposals | T+116 | T+90 |
| 11 | Contract discussions with highest scoring consultant | T+126 | T+100 |
| 12 | Combined evaluation Report and recommendation for award by Evaluation committee | T+131 | T+103 |
| 13 | Approval of the combined evaluation Report by Competent Authority | T+136 | T+106 |
| 14 | Issue of Notification of Award | T+137 | T+107 |
| 15 | Signing of contract | T+144 | T+114 |

*The time may be changed depending on the queries from the Bidders
and in case of issue of Clarification/Addendum/Corrigendum to the
Bidding Document.

APPENDIX 4

[See rule 16]

**Procedure for submission, opening and evaluation of bids
(e-Procurement)**

1. **Mandatory e-publishing of tenders.** - Tenders shall be published on the e-Procurement Portal by authorised executives of Procuring Entity along with Digital Signature Certificates (DSC). After the creation of the tender, a unique “tender id” is automatically generated by the system which is used as a reference for all purposes in future.
2. **Registration of bidders on portal.** - In order to submit the bid, bidders shall register themselves online, as a one-time activity, on the e-Procurement Portal with a valid DSC. The registration shall be in the name of the bidder, whereas DSC holder may be either the bidder himself or a duly authorised person. The bidders shall accept, unconditionally, the online user portal agreement containing all the terms and conditions of Notice Inviting Bid including commercial and general terms and conditions and other conditions, if any, along with an online undertaking in support of the authenticity of the declarations regarding facts, figures, information and documents furnished by the bidder online. For further information, the bidders shall refer to the instructions provided on the e-Procurement Portal under Bidders Manual Kit.
3. **Bid submission:** The bidders shall submit their techno-commercial bids and price bids online. No conditional bid shall be allowed /accepted. Bidders will have to upload scanned copies of various documents required for eligibility and all other documents as specified in Notice Inviting Bid, techno-commercial bid in cover-I (First Envelope), and price bid in cover-II (Second Envelope) or any other cover/s/envelope/s as applicable. To enable system generated techno-commercial and price comparative statements, such statements shall be asked to be submitted in Excel formats. The bidder will have to give an undertaking online that if the information/declaration/scanned documents furnished in respect of eligibility criteria are found to be wrong or misleading at any stage, they will be liable to punitive action. Bid Security and tender fee shall be submitted in the electronic format online (NEFT/RTGS/Internet Banking or

any other online mode available on e-Procurement Portal). This submission shall mean that the Bid Security and tender fee are received electronically. In case of exemption of Bid Security, the scanned copy of the document in support of exemption will have to be uploaded by the bidder during bid submission. For more information, the bidders shall refer to the instructions provided on the e-Procurement Portal's Website under Bidders Manual Kit.

4. **Corrigendum, clarifications, re-submission and withdrawal of bids.**

-(1) In case any modification is made to the Bidding Document or any clarification is issued which materially affects the terms contained in the Bidding Document, the Procuring Entity shall publish or communicate such modification or clarification by issuing a corrigendum on the e-Procurement Portal.

(2) In case a clarification or modification is issued to the Bidding Document, the Procuring Entity shall, before the last date for submission of bids, extend such time limit, if, in its opinion more time is required by bidders to take into account the clarification or modification, as the case may be, while submitting their bids. Any bidder who has submitted his bid in response to the original invitation shall have the option to resubmit/withdraw his bid on the e-Procurement Portal. For more information, the bidders shall refer to the instructions provided on the e-Procurement Portal under Bidders Manual Kit.

5. **Bid opening.** - Both the techno-commercial and price bids are opened online by the bid openers mentioned at the time of creation of the tender online. Relevant bidders can simultaneously take part in bid opening online and can see the resultant bids of all bidders. The system automatically generates a technical scrutiny report and commercial scrutiny report in case of the techno-commercial bid opening and a price comparative statement in case of price bid opening which can also be seen by participating bidders online. Bid openers shall download the bids and the reports/statements and sign them for further processing. In case of opening of the price bid, the date and time of opening is uploaded on the e-Procurement Portal and shortlisted firms may also be informed through system generated emails and SMS alerts – after shortlisting of the techno-commercially acceptable bidders;

6. **Shortfall document.** - Any document not enclosed by the bidder may be asked for by the Procuring Entity and submitted by the bidder online, provided it does not vitiate the tendering process;
7. **Determination of Responsiveness of Bid.** - (1) The bid evaluation committee shall determine the responsiveness of a bid on the basis of bidding documents and the provisions of sub-section (2) of section 7.
(2) A responsive bid is one that meets the requirements of the bidding documents without material deviation, reservation, or omission where: - (a) "deviation" is a departure from the requirements specified in the bidding documents; (b) "reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the bidding documents; and (c) "Omission" is the failure to submit part or all of the information or documentation required in the bidding documents.
(3) A material deviation, reservation, or omission is one that, (a) if accepted, shall:- (i) affect in any substantial way the scope, quality, or performance of the subject matter of procurement specified in the bidding documents; or (ii) limits in any substantial way, inconsistent with the bidding documents, the procuring entity's rights or the bidder's obligations under the proposed contract; or (b) if rectified, shall unfairly affect the competitive position of other bidders presenting responsive bids.
(4) The bid evaluation committee shall examine the technical aspects of the bid in particular, to confirm that all requirements of bidding document have been met without any material deviation, reservation or omission.
(5) The procuring entity shall regard a bid as responsive if it conforms to all requirements set out in the bidding documents, or it contains minor deviations that do not materially alter or depart from the characteristics, terms, conditions and other requirements set out in the bidding documents, or if it contains errors or oversights that can be corrected without touching on the substance of the bid.
8. **Evaluation of technical Bids** -(1) The criteria fixed for evaluation of technical bids shall be in accordance with the provisions of section 7 of the Act and clearly mentioned in the bidding documents so as to keep transparency in selection process. The criteria once fixed for evaluation of technical bids

shall not be changed or relaxed. The system generated reports and comparative statements may be used for the purpose of evaluation by the procurement committee.

9. **Evaluation of Financial Bids.** - (1) The financial evaluation shall include all costs and all taxes and duties applicable to the bidder as per law of the Central / State Government / Local Authorities, and the evaluation criteria specified in the bidding documents shall only be applied.

(2) The bid evaluation committee shall prepare a comparative statement in tabular form with its report on evaluation of financial bids and recommend the lowest offer for acceptance to the procuring entity, if price is the only criterion, or most advantageous bid in other case.

(3) It shall be ensured that the offer recommended for sanction is justifiable looking to the prevailing market rates of the goods, works or service required to be procured.

10. **Award of contract.** -(1) The Procuring Entity shall award the Contract to the Bidder whose offer has been determined to be the lowest evaluated Bid or Bid **with highest combined** score (as applicable) and is substantially responsive to the Bidding Document, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.

(2) Prior to the expiration of the period of the Bid validity, the Procuring Entity shall notify the successful Bidder, in writing, the Letter of Acceptance (or Notice of Award, or Acceptance of Tender), that its Bid has been accepted. It shall also include the instructions to deposit the performance security within 15 days period. Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract.

(3) The Procuring Entity shall publish the results on the State Public Procurement Portal identifying the Bid reference number along with the following information:

- (i) Name of each bidder who submitted the Bid
- (ii) Bid prices as quoted by the bidders and evaluated prices of each Bid (for single envelope process)
- (iii) Names of technically qualified bidders, quoted Bid prices and evaluated process of each Bid (two envelope process)

- (iv) Names of Bidders whose Bids were rejected and brief reasons for their rejection
- (v) Name of the winning Bidder, items contracted, the contract price and delivery period.

11. Return of Bid Security. – (1) Bid Security of the bidders whose bid is rejected in technical evaluation shall be returned upon the completion of technical evaluation.

(2) Bid Security of all the remaining bidders except the L1 bidder/successful bidder shall be returned upon the completion of financial evaluation.

(3) Bid Security of the L1 bidder/successful bidder shall be returned once the L1 bidder/successful bidder has signed the Contract and furnished the required performance security or shall be adjusted against the performance security or payment under contract, as the case may be.

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APPENDIX 5

[See rules 19(6) and 40]

APPEALS

Memorandum of Appeal under The Punjab Transparency in Public Procurement Act, 2019

Appeal No. of

Before the (designation of Officer of
Procuring Entity/Appellate Authority)

1. Particulars of the Appellant:
 - (a) Name of the Appellant:.....
 - (b) Official address if any:.....
 - (c) Residential address:.....
 - (d) Phone no..... Cell no.....
 - (e) E-mail address:.....
2. Number and date of the order appealed against and the name and designation of the
Officer/authority who passed the order (enclose copy),
3. If the Appellant proposes to be represented by a representative, the name, postal address, telephone & cell no. and e-mail of the representative:
4. Number of affidavits and documents enclosed with the Appeal:
 - (a)
 - (b)
 - (c)
5. Grounds of appeal enclosed:
 - (a) (Supported by an affidavit)
 - (b) (Supported by an affidavit)
 - (c) (Supported by an affidavit)
6. Prayer:

Place:

Date:

Appellant's signature

APPENDIX 6

[See rule 31]

Procedure for procurement through Swiss Challenge

1. Preparation and Submission of Proposal by Project

Proponent: The Procuring Entity while adopting the Swiss Challenge Method shall ensure to follow the procedure stated below:

- (1) The Project Proponent shall submit an application along with certificate in Form No. 'K' and details of proposal in Form No. 'L' appended to these Rules to the Administrative Department.
- (2) The Administrative Department shall scrutinize the proposal with respect to need & requirement and shall ensure that the proposal prima facie addresses the public need and requirement.
- (3) The Administrative Department is under an obligation to reject proposals which have no uniqueness and specificity of design/technology/intellectual property for that project, but in case, the Administrative Department considers that a proposal received is qualified under Swiss Challenge Method, and then it would record reasons in writing for acceptance.
- (4) The Administrative Department shall submit its recommendations along with the detailed examination of the proposal to the State Level Empowered Committee for approval.
- (5) The State Level Empowered Committee shall be empowered to accept or reject the proposal, with modification if any. The proceedings of State Level Empowered Committee shall be duly recorded in writing.
- (6) Upon acceptance of proposal by State Level Empowered Committee, the Administrative Department shall intimate the timelines to the Project Proponent, for undertaking detailed studies.
- (7) The Project Proponent shall submit the detailed and comprehensive proposal prescribed herein two envelopes. The Project Proponent shall submit a detailed and comprehensive

proposal in Form 'N' along with the Detailed Project Report with costs thereof, the survey data, specifications, inputs, outputs or outcomes, as well as designs, estimated cost of the project, along with Front-end Security. The detailed project proposal shall include the details specified in Form No. 'M' and also submit financial summary in Form 'O'. The first envelope shall be opened by the Administrative Department or the Committee constituted for this purpose.

(8) Second envelope shall contain the bid value and it shall be opened later by the Administrative Department or Committee constituted for this purpose, at the time of opening of the financial bids received from other bidders through Open Competitive Bidding process.

(9) It shall be ensured by the Project Proponent that all financial reports and/or the documents having financial details must be duly verified from a Chartered Accountant.

(10) In case, the Project Proponent fails to submit detailed and comprehensive proposal within the timeline specified and submits written request to the Administrative Department, the Administrative Department may in appropriate case, after recoding reasons in writing shall extend the period specified.

(11) The Project Proponent shall also be required to submit the requisite Bid Security as specified in the Bidding Document; in case the bidding process is initiated. The Administrative Department shall adjust such Bid Security against the Front-end Security and balance, if any, liable to be paid by the Project Proponent. If Project Proponent fails to submit the requisite amount within the time specified in Bidding Document, his Front-end Security shall be forfeited and shall seize to be the Project Proponent and exercise no claims over the Project Proposal.

(12) If the Project Proponent fails to submit the detailed and comprehensive proposal within a specified period or extended period, as the case may be, the Administrative Department may at its discretion exercise the option to develop the project in-house or through any agencies or third party, without the Project Proponent having any claims on the proposal. The option so exercised shall be published by the Administrative Department on the State Public Procurement Portal.

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(13) The Administrative Department may carry out additional studies for independently determining the project cost, project revenues, viability and risk analysis etc. to ensure proper benchmarking.

2. Evaluation Committee. - The Administrative Department may constitute an Evaluation Committee for the evaluation. The Evaluation Committee shall be capable in analysing the project proposal. The Administrative Department may initiate the process of constitution of the Evaluation Committee immediately after acceptance of proposal by State Level Empowered Committee and shall be constituted before the receipt of detailed and comprehensive project proposal.

3. Clarifications and Modifications. -(1) No changes shall be permitted in the detailed and comprehensive project proposal once the Project Proponent has submitted it to the Administrative Department concerned. During the evaluation of proposal, Administrative Department may at its discretion, ask Project Proponent for clarification or to submit additional documents on their proposal. These clarifications shall be attached as an addendum to the detailed and comprehensive project proposal.

(2) The Administrative Department shall have the authority to make changes to the project proposal as per the needs, requirements and development plans of the Administrative Department, without changing the basic theme and fundamental structure of the project report.

4. Final Approval. -Post evaluation by the Evaluation Committee, the Administrative Department shall submit detailed and comprehensive proposal, an evaluation report on the proposal of the Project Proponent along with its recommendations to State Level Empowered Committee for approval. The Administrative Department shall also include the budgetary provision, if any, available in that particular financial year for the said project proposal.

5. Bidding Process. -(1) The Detailed Project Report (except for proprietary technology details) shall be published by the Administrative Department on State Public Procurement Portal so

as to ensure fair competition and for providing an opportunity for a competitive bidding process.

(2) The Open Competitive Bidding process, as per section 28 of the Act, shall be initiated by the Administrative Department concerned after approval of the project proposal from State Level Empowered Committee.

(3) The Bidding Document, among other essential clauses, shall incorporate details about the necessary clearances/approvals to be taken from respective authorities and who, i.e. the Administrative Department or the successful Bidder/ Project Proponent, shall be responsible for taking it, keeping in view the nature and requirements of individual project.

(4) After examination of the bids, if the proposal of the Project Proponent is found to be lowest or most advantageous, as the case may be, in accordance with the evaluation criteria as specified in Bidding Document, then the Project Proponent shall be selected and awarded the project. In case bid of other bidder is found lowest or most advantageous, as the case may be, the Project Proponent shall be given an opportunity to match the lowest or most advantageous bid within a period as specified. If the Project Proponent agrees to match the lowest or most advantageous bid, within the time period specified, the Project Proponent shall be selected and awarded the project. In case the Project Proponent fails to match the lowest or most advantageous bid, within the period specified, the bidder who has submitted lowest or most advantageous bid, as the case may be, shall be selected and awarded the contract.

(5) In case, no bid is received, the contract may be awarded to the Project Proponent.

6. Projects, which shall not be acceptable under Swiss Challenge Method. -The following proposals shall not be acceptable under Swiss Challenge Method, namely:

- (1) Proposals which contravene the provisions of any law that is in force;
- (2) Proposals/ projects which would result in monopolistic situation;
- (3) Projects which are less than Rs. 50 crore in value.

- (4) Proposals / projects that fall outside the sectors and below the financial limits as prescribed in these Rules.
- (5) Proposals of PPP Projects involving financial assistance from State Government by way of viability gap funding (VGF) more than 20% of the total project cost, excluding the cost of land.
- 7. Front-end Security.** -The Project Proponent shall furnish interest-free Front-end Security, as a token of sincerity and good faith, amounting to 1% of the total estimated cost of the project through demand draft or bank guarantee, acceptable to the Administrative Department concerned, with a validity period of not less than 180 days commencing from the date of submission of detailed and comprehensive proposal, to be extended as may be mutually agreed, from time to time. The Bid shall be summarily rejected if the detailed and comprehensive proposal is not accompanied by the Front-end Security.
- 8. Cancellation of the Project.** - (1) The Administrative Department concerned shall have the right to cancel the project prior to receiving the approval on detailed and comprehensive proposal from State Level Empowered Committee without assigning any reason to the Project Proponent.
- (2) In case, the Administrative Department intends to cancel the project after receiving approval on detailed and comprehensive proposal from State Level Empowered Committee, it shall seek approval for the same from the State Level Empowered Committee.
- (3) If the Administrative Department cancels the project in the manner as specified above, the same shall be published by the Administrative Department on State Public Procurement Portal.

Appendix- 7

[See rule 34]

Procedure for Procurement of Consultancy Services

CHAPTER 1

INTRODUCTION

1.1 Good Governance requires the governments to be responsive to the present and future needs of the society with an objective to fulfil the aspirations of the people it governs. The process of governance throws numerous challenges which are expected to be resolved not only expeditiously but also to the satisfaction of the stakeholders. The resolutions, at time, may require the assistance of Consultants (external experts for input of intellectual and advisory in nature).

1.2 The Procuring Entities, wherever the assistance of Consultants is required, should first try to avail the services of in-house experts/ resources or institutions like MGSIPA or other specialized institutions of Government of Punjab/ Government of India.

1.3 Recognizing that the Procuring Entity may not have the technical and sometimes even operational capacity to switch gears and accelerate the development process with the available human resources, the Government of Punjab has decided to permit the Procuring Entities to contract the services of Consultants for a specified duration with well-defined Terms of Reference (TOR).

1.4 While contracting the services of Consultants, the Procuring Entities must note that the consultants cannot substitute for the core competencies of the Procuring Entity. Further, the contracted Consultants will and can add value to the development process when they complement, supplement and demonstrate increased effectiveness of programme impact and enable higher than expected outcomes. In this process the Procuring Entity must ensure that the services of the contracted Consultants are effectively managed by the Administrative Secretary/Head of the Department (HoD) directly and any shortfall is identified and remedied immediately. The Procuring Entity must ensure that the Consultants build the capacity of the Procuring Entity functionaries across the operational value chain and the process does not breed avoidable dependence on the contracted Consultants in the longer term. Above all, the Procuring Entity must ensure that the contracted Consultants deliver as per the Terms of

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Reference defined for them in terms of outputs, outcomes and the time schedule.

Applicability

1.5 The Procuring of the Government of Punjab may use the consultants to help in a wide range of activities-such as policy advice; institutional reforms; management; engineering services; construction supervision; financial services; procurement services; social and environmental studies; and identification, preparation and implementation of projects to complement its capabilities in these areas.

Powers to procure Consultancy Services

1.6 The concerned Procuring Entity can procure Consultancy Services as per their assessed need in terms of the provision of the Act and these Rules. These Guidelines are forming part of the Rules as “Appendix-7 Guidelines for Selection of Consultants” and are issued in pursuance of section 61 of the Act and are hence supplementary to the Act and shall in no way replace or substitute it. The guidelines are meant to assist the Procuring Entities in procurement of the Consultant(s). All matters not, hitherto, specifically mentioned shall continue to be guided by the Act and these Rules.

Definition of Consultant

1.7 The term ‘Consultant/s’ for the purpose of these Guidelines, includes a wide variety of private and public entities, including consulting firms, engineering firms, construction managers, management firms, inspection agents, auditors, investment and merchant banks, universities, research institutions, government agencies, non-governmental organizations (NGOs) and individuals.

1.8 The consulting services to which these Guidelines apply are of an intellectual and advisory nature. These Guidelines do not apply to other types of services in which the physical aspects of the activity predominate (for example, construction of works, manufacture of goods, operation and maintenance of facilities or plant, surveys, exploratory drilling, aerial photography, satellite imagery, and services contracted on the basis of performance of measurable physical output).

Purpose

1.9 The Procuring Entity may decide to contract the services of Consultants – individuals and firms – for specified duration and for specified purpose with a detailed Terms of Reference (TOR) and performance management system after analyzing the gaps that exist in- strategic and operational planning, technical assistance, technology transfer and capacity development within the Government and/or for effective monitoring and evaluation of the Mission related activities.

1.10 The Procuring Entities, for the above purpose, should conduct a strategic assessment of the planning, implementation, and monitoring capacity of the Department at all operational levels and identify the critical gaps. Based on such a diagnostic review, the Procuring Entity must identify the expert services it would require in order to supplement the existing human resource capabilities. Based on such an assessment, the Procuring Entity will identify the number of Consultants it would require during the current financial year and thereafter and draw up detailed terms-of-reference for each of the Consultants to be contracted.

1.11 The services of Consultants should normally be contracted for a period not exceeding nine months and rarely ever extended beyond a year. However, certain specialized Consultants such as ‘Design and supervision of works contracts’, ‘Strategic Consultancy services’ etc. may be hired for longer period as considered necessary on approval by a competent authority based on the specific need and Terms of Reference (ToR).

1.12 The Consultants are to be contracted to supplement and/or complement the capacity of the Mission executing Procuring Entity or the agency for the well-defined purpose of diagnostic review of the sector, preparation of strategic plans and implementation plan with budget, monitoring and evaluation and not as a matter of routine or to substitute core and sovereign functions of the Department.

General Considerations

1.13 While the specific Rules and procedures to be followed for employing consultants would depend on the circumstances of a particular case, four main considerations should guide the Government of Punjab’s need for engaging the “Consultant”-

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- a. Absence of required 'in-house' expertise.
- b. The need for high-quality services;
- c. The need for economy and efficiency;
- d. The need to have qualified consultants for providing a specific process;

1.14 The assessment of "need" shall be followed by a "transparent" process of engaging the Consultant. Chapter II and III of these Guidelines describe the different methods of selection of consultants and the circumstances in which they are appropriate. Since quality of Consultant along with the cost of engaging the Consultant is of paramount importance in selecting the best external expertise, the criteria of Quality-and Cost-Based selection (QCBS) has been described in detail in Chapter II of these Guidelines. However, Quality and Cost Based Selection is not always the most appropriate methods of selection for all cases, therefore, Chapter III describes other methods of selection and the circumstances in which they are more appropriate.

Conflict of Interest

1.15 The Consultants are expected to provide professional, objective, and impartial advice and at all times hold the client's interests paramount, without any consideration for future work and that in providing advice they must avoid conflicts with other assignments and their own corporate interests. The Consultants shall, thus, not be hired for any assignment that would be in conflict with their prior or current obligations to other client or that may place them in a position of being unable to carry out the assignment in the best interest of the Government. Without limitation on the generality of the forgoing, consultants shall not be hired under the circumstances set forth below:

- a. Conflict between consulting activities and procurement of goods, works or services (other than consulting services covered by these Guidelines): A firm that has been engaged by the Government to provide goods/works, or services (other than consulting services covered by these Guidelines) for a project, and each of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a firm hired to provide consulting services for the preparation or

implementation of a project, and each of its affiliates, shall be disqualified from subsequently providing goods, works or services (other than consulting services covered by these Guidelines) resulting from or directly related to the firm's consulting services for such preparation or implementation.

- b. Conflict among consulting assignments: Neither consultants (including their personnel and sub-consultants) nor any of their affiliates shall be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultant. As an example, consultant hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and consultant assisting in the privatization of public assets shall neither purchase, nor advise purchasers of, such assets. Similarly, consultants hired to prepare Terms of Reference (TOR) for an assignment shall not be hired for the assignment in question.
- c. Relationship with Procuring Entity staff: Consultants (including their personnel and sub-consultants) that have a business or family relationship with a member of the Procuring Entity staff (or of the project implementing agency) who are directly or indirectly involved in any part of : (i) the preparation of the Terms of Reference of the contract, (ii) the selection process for such contract, or (iii) supervision of such contract may not be awarded a contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Government throughout the selection process and the execution of the contract.
- d. A Consultant shall submit only one proposal, either individually or as a joint venture partner in another proposal. If a Consultant, including a joint-venture partner, submits or participates in more than one proposal, all such proposals shall be disqualified. This does not, however, preclude a consulting firm to participate as a sub-consultant, or an individual to participate as a team-member, in more than one proposal

when circumstances justify and if permitted by the Request for Proposal.

Unfair Competitive Advantage

1.16 Fairness and transparency in the selection process requires that consultants or their affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Procuring Entity shall make available to the short-listed consultants together with the request for proposals all information that would in that respect give a consultant a competitive advantage.

Associations between Consultants

1.17 Consultants may associate with each other in the form of a joint venture or of a sub consultancy agreement to complement their respective areas of expertise, strengthen the technical responsiveness of their proposals and make available bigger pool of key experts, provide better approaches and methodologies, and in some cases, to offer lower prices. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment. If the Procuring Entity employs an association in the form of a joint venture, the association should appoint one of the firms to represent the association; all members of the joint venture shall sign the contract and shall be jointly and severally liable for the entire assignment. Once the short list is finalized, and Requests for Proposals (RFP) are issued, no association in the form of joint venture or sub-consultancy among short-listed firms shall be permissible.

Training or transfer of Knowledge/Tool

1.18 The Request for Proposal should, preferably, include training or transfer of knowledge/tool to the Procuring Entity staff as an important component. The Terms of Reference shall clearly indicate the objectives, nature, scope, and goals of the training program, including details on trainers and trainees, skills to be transferred, time frame, and monitoring and evaluation arrangements. The cost for the training program shall be included in the consultant's contract and in the budget for the assignment.

General Issues

1.19 The State Government shall through Notification, announce a cap on expenditure on consultants as a fixed percentage of Salary expenditure of a Procuring Entity or overall state expenditure.

1.20 The Procuring Entities are required to work in close coordination with the Directorate of Procurement Policy and Enforcement (DPPE) and State Government while contracting the services of Consultants. Above all, the Administrative Secretary/HoD concerned must closely work with the consultants, duly ensuring their performance is in accordance with the contractual agreement. The contract of any consultant falling short of expected standards be terminated without loss of time.

APPENDIX 7

CHAPTER II

QUALITY-AND COST-BASED SELECTION (QCBS)

The Selection Process

2.1 Quality and Cost Based Selection uses a competitive process among short-listed firms that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm. Cost as a factor of selection shall be used judiciously. The relative weight to be given to the quality and cost shall be determined for each case depending on the nature of the assignment

2.2 The selection process shall include the following steps:

- a. preparation of the Terms of Reference;
- b. preparation of cost estimate;
- c. advertising/ preparation of the short list of consultants;
- d. preparation and issuance of the Request for Proposal
[which should include: the Letter of Invitation;
Instructions to Consultants; the Terms of Reference and
the draft Contract];
- e. receipt of proposals;
- f. public opening of technical proposal;
- g. evaluation of technical proposals; consideration of
quality;
- h. public opening of financial proposals;
- i. evaluation of financial proposal;
- j. Final evaluation of quality and cost; and
- k. award of the contract to the selected firm.

Terms of Reference (TOR)

2.3 The Procuring Entity shall be responsible for preparing the TOR for the assignment. The Procuring Entity shall ensure that the scope of the services described in the Terms of Reference shall be compatible with the available budget.

2.4 The Terms of Reference shall define clearly the objectives, goals, activities, tasks to be performed, and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to facilitate the consultants' preparation of their proposals. If transfer of knowledge or training is an objective, it should be specifically outlined along with details of

number of staff to be trained, and so forth, to enable consultants to estimate the required resources. The Terms of Reference shall list the services and surveys necessary to carry out the assignment and the expected outputs (for example, reports, data, maps, surveys).

2.5 The Procuring Entity's and the Consultants' respective responsibilities should be clearly defined in the Terms of Reference.

Cost Estimate (Budget)

2.6 Preparation of a well-thought-through cost estimate is essential if realistic budgetary resources are to be earmarked. The cost estimate shall be based on the Procuring Entity's assessment of the resources needed to carry out the assignment: staff time, logistical support, and physical inputs (for example, vehicles, field visits etc.). Costs shall be divided into two broad categories: (a) fee or remuneration (according to the type of contract used) and (b) reimbursables.

Advertising

2.7 Where the estimated cost of consulting services is above Rs 5 Lakh, the Procuring Entity shall adopt Open Competitive Bidding for inviting bids. The advertisement of the bidding under this method shall be published on the State Public Procurement Portal, on Departmental website and indicative publication in newspaper, or any other method notified by the State Government from time to time.

Short List of Consultants

2.8 The Procuring Entity shall be responsible for preparation of the short list. The Procuring Entity shall give first consideration to those firms expressing interest that possess the relevant experience and qualifications. Short lists shall comprise a minimum of six firms with suitable experience and qualifications. The Procuring Entity may, with the approval of its Administrative Secretary, prepare a short list comprising a smaller number of firms in special circumstances, for example, when only a few qualified firms have expressed interest for the specific assignment or when the size of the contract does not justify wider competition. Firms that expressed interest, shall be provided the final short list of firms.

2.9 The short list should preferably comprise consultants of the same category, similar capacity, and business objectives.

Consequently, the short list should normally be composed of firms of similar experience or of not-for-profit organizations (NGOs, Universities, Research institutions, etc.) acting in the same field or expertise. If mixing is used, the selection should be made using Quality-Based Selection (QBS) or Selection Based on the Consultants' Qualification (CQS) (for small assignments). The short list shall not include Individual Consultants.

Preparation and Issuance of the Request for Proposals (RFP)

2.10 Procuring entity may also, as an alternative, invite consultants to propose through issuance of direct Request for Proposal (RFP) without shortlist or issuing a Request for Proposal to shortlisted firms by inviting Expression of Interest (EOI) depending on the value of the assignment and as may be approved by the competent authority in the procurement plan.

2.11 The RFP shall include (a) a Letter of Invitation (b) Information to Consultants (c) The TOR and a draft Contract. The Procuring Entity may use an electronic system to distribute the RFP, provided that the receipt of the same is acknowledged by all short-listed firms. If the RFP is distributed electronically, the electronic system shall be secured to avoid modifications to the RFP and shall not restrict the access of short-listed consultants to the RFP.

Letter of Invitation (LOI)

2.12 The Letter of Invitation shall state the intention of the Procuring Entity to enter into a contract for the provision of consulting services, the details of the Procuring entity and the date, time, and address for submission of proposals.

Instructions to Consultants (ITC)

2.13 The Instructions to Consultants shall contain all necessary information that would help consultants prepare responsive proposals and shall bring as much transparency as possible to the selection procedure by providing information on the evaluation process and by indicating the evaluation criteria and factors and their respective weights and the minimum passing quality score. The Instructions to

Consultants shall indicate an estimate of the level of key staff inputs (in staff time) required of the consultants or the total budget, but not both. Consultants, however, shall be free to prepare their own estimates of staff time to carry out the assignment and to offer the corresponding cost in their proposals. The Instructions to Consultants shall specify the proposal validity period, which should be adequate for the evaluation of proposals decision on award and finalization of contract.

2.14 It shall also indicate whether a Full Technical Proposal (FTP) or a Simplified Technical Proposal (STP) is required to be submitted. The details of FTP or STP is as follows:

A. Full Technical Proposal (FTP)

- a. Full Technical Proposal is appropriate when the cost of Contract is more than the threshold monetary limit to be notified by Directorate of Procurement Policy and Enforcement (DPPE) from time to time;
- b. Full Technical Proposal format should include:
 - i. Legal Status of the Firm - Introduction to the firm and associate firm(s) background; registrations and operations;
 - ii. Experience of the Firm - Description of completed projects illustrating firm and associate(s) firm's relevant experience;
 - iii. Comments on Terms of Reference - Concise and to the point as a separate section;
 - iv. General Approach and Methodology, Work Plan – Detailed description including charts and diagrams;
 - v. Personnel's CVs - Detailed CV (preferably provide CV Format) of all proposed Consultants; and
 - vi. Personnel Deployment Schedule - Required (preferably provide Personnel Deployment Schedule Format).

B. Simplified Technical Proposal (STP)

- a. Simplified Technical Proposal is appropriate when the cost of Contract is equal to or less than the threshold

monetary limit to be notified by Directorate of Procurement Policy and Enforcement from time to time;

- b. Simplified Technical Proposal format should include:
 - i. Legal Status of the Firm - Introduction to the firm and associate firm(s) background; registrations and operations;
 - ii. General Approach and Methodology, Work Plan – Brief description including charts and diagrams;
 - iii. Personnel's CVs - Detailed CV (preferably provide CV Format) of all proposed Consultants; and
 - iv. Personnel Deployment Schedule - Required (preferably provide Personnel Deployment Schedule Format)

2.15 The Procuring Entity should assess which type of Proposal Format should be used based on its appropriateness vis-a-vis the scope-of-work and nature of assignment.

2.16 Forms for Technical and Financial Proposals - this chapter includes the forms for Full Technical Proposal and Simplified Technical Proposal that are to be completed by the shortlisted consultants and submitted in accordance with the requirements indicated therein.

2.17 A detailed list of the information that should be included in the Instructions to Consultants is provided in Chapter VA.

2.18 Terms of Reference (ToR) – Terms of Reference is the most important component of RFP and has been dealt separately in detail at Para 2.3 to 2.5 of these guidelines.

2.19 The timeframe for various activities in the process of procurement of Consulting Services following Quality and Cost Based Selection Method shall be as per Appendix-2 appended to these Rules.

Contract

2.20 Standard Forms of Contract - this section shall include the type of standard contract form which normally shall be either a 'Time-

Based Contract' or a 'Lump-Sum Contract'. It will include General Conditions of Contract ("GCC") and Special Conditions of Contract ("SCC"). The Special Conditions of Contract include clauses specific to each contract to supplement the General Conditions.

2.21 Chapter IV of these Guidelines briefly discusses the most common types of contracts. Procuring Entity shall use the appropriate contract that fits the requirements of the assignment.

Receipt of Proposals

2.22 The Procuring Entity shall allow enough time for the consultants to prepare their proposals. The time allowed shall depend on the assignment, but normally shall not be less than two weeks or more than three months (for example, for assignments requiring establishment of a sophisticated methodology, preparation of a multidisciplinary master plan). During this interval, the firms may request clarifications about the information provided in the Request for Proposal. The Procuring Entity shall provide these clarifications in writing and copy them to all firms on the short list (who intend to submit proposals).

2.23 Procuring Entity may fix a pre-proposal conference to clarify the queries. The proceedings of such pre-proposal conference shall be sent to all the firms on the short-list. If necessary, the Procuring Entity may extend the deadline for submission of proposals. The technical and financial proposals shall be submitted at the same time. No amendments to the technical or financial proposal shall be accepted after the deadline. To safeguard the integrity of the process, the technical and financial proposals shall be submitted in separate sealed envelopes.

2.24 The technical envelopes shall be publicly opened immediately by a committee of officials drawn from the relevant Departments (technical, finance, as appropriate), after the closing time for submission of proposals. The financial proposals shall remain sealed and shall remain so till opened publicly. Any proposal received after the closing time for submission of proposals shall be returned unopened. Procuring Entity shall use e-Procurement portal where the estimated cost of the consulting service is above Rs. 25 Lakh.

Evaluation of Proposals: Consideration of Quality and Cost

2.25 The evaluation of the proposals shall be carried out in two stages: first the quality, and then the cost. Evaluators of technical proposals shall not have access to the financial proposals until the technical evaluation is concluded. Financial proposals shall be opened only thereafter. The evaluation shall be carried out in full conformity with the provisions of the Request for Proposal.

Evaluation of the Quality

2.26 The Procuring Entity through a separate Evaluation Committee shall evaluate each technical proposal taking into account several criteria: (a) the consultant's relevant experience for the assignment, (b) the quality of the methodology proposed, (c) the qualifications of the key staff proposed, and (d) transfer of knowledge, if required in the Terms of Reference. Each criterion shall be marked on a scale of 1 to 100. Then the marks shall be weighted to become scores. The following weights are indicative. The actual percentage figures to be used shall fit the specific assignment and shall be within the ranges indicated below. The proposed weights shall be disclosed in the RFP.

Consultant's specific

| | | |
|---|---|-----------------|
| Experience | : | 0 to 10 points |
| Methodology | : | 20 to 50 points |
| Key personnel | : | 30 to 60 points |
| Transfer of Knowledge ^{1/Tool} | : | 0 to 10 points |
| Total: | : | 100 points |

2.27 The Procuring Entity shall normally divide these criteria into sub criteria. For example, sub criteria under methodology might be *innovation and level of detail*. However, the number of sub criteria should be kept to the essential. The weight given to experience can be relatively modest, since this criterion has already been taken into account when short-listing the consultant. More weight shall be given to the methodology in the case of more complex assignments (for example, multidisciplinary feasibility of management studies).

2.28 Evaluation of only the key personnel is recommended. Since key personnel ultimately determine the quality of performance, more weight shall be assigned to this criterion if the proposed assignment is

¹Transfer of knowledge may be the main objective of some assignments: in such cases, it shall be indicated in the TOR and only with prior approval of the State Level Committee (SLC) may be given a higher weight to reflect its importance.

complex. The Procuring Entity shall review the qualifications and experience of proposed key personnel in their *curricula vitae*, which must be accurate, complete, and signed by an authorized official of the consulting firm and the individual proposed. The individuals shall be rated in the following three sub criteria, as relevant to the task:

- a. General qualifications: general education and training, length of experience, positions held, time with the consulting firm as staff, and so forth;
- b. Adequacy for the assignment: education, training, and experience in the specific sector, field, subject, and so forth, relevant to the particular assignment; and
- c. Experience in the region: knowledge of the local language, culture, administrative systems, and so forth.

2.29 The Procuring Entity shall evaluate each proposal on the basis of its responsiveness to the Terms of Reference. A proposal shall be considered unsuitable and shall be rejected at this stage if it does not respond to important aspects of the Terms of Reference or it fails to achieve a minimum technical score specified in the Request for Proposal.

2.30 At the end of the process, the Procuring Entity shall prepare a Technical Evaluation Report of the “Quality” of the proposals. The report shall substantiate the results of the evaluation and describe the relative strengths and weaknesses of the proposals. All records relating to the evaluation, such as individual mark sheets, shall be retained until completion of the assignment and its audit.

Evaluation of Cost

2.31 After the evaluation of quality is completed, the Procuring Entity shall inform the consultants who have submitted proposals, the technical points assigned to each consultant and shall notify those consultants whose proposals did not meet the minimum qualifying mark or were considered nonresponsive to the Request for Proposal and Terms of Reference that their financial proposals will be returned unopened after the signing of the contract.

2.32 The Procuring Entity shall simultaneously notify the consultants that have secured the minimum qualifying mark, the date, time, and place set for opening the financial proposals. The opening

date shall be fixed allowing sufficient time for consultants to make arrangements to attend the opening of the financial proposals.

2.33 The financial proposals shall be opened publicly in the presence of representatives of the consultants who choose to attend. The name of the consultant, the technical points and the proposed prices shall be read aloud (and posted online when electronic submission of proposals is used) and recorded when the financial proposals are opened. The Procuring Entity shall also prepare the minutes of the public opening and a copy of record.

2.34 The Procuring Entity shall then review the financial proposals. If there are any arithmetical errors, they shall be corrected. For the purpose of evaluation, “cost” shall include all consultants’ remuneration and other expenses such as travel, translation, report printing, or secretarial expenses. The proposal with the lowest cost may be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices. Alternatively, a directly proportional or other methodology may be used in allocating the marks for the cost. The methodology to be used shall be described in the Request for Proposal.

Combined Quality and Cost Evaluation

2.35 The total score shall be obtained by weighting the quality and cost scores and adding them. The Weight for the “cost” shall be chosen, taking into account the complexity of the assignment and the relative importance of quality. Except for the type of services specified in chapter III, the weight for cost shall normally be 20 points out of a total score of 100. The proposed weightings for quality and cost shall be specified in the RFP. The firm obtaining the highest total score shall be awarded the contract.

Award of contract

2.36 Discussions may be held with the consultant on the Terms of Reference, the methodology, staffing, Procuring Entity's inputs, and special conditions of the contract. These discussions shall not substantially alter the original Terms of Reference or the terms of the contract, lest the quality of the final product, its cost, and the relevance of the initial evaluation be affected. No reductions in work inputs should not be made solely to meet the budget, therefore, the Procuring Entity shall ensure adequate budgetary provision before

finalizing the Terms of Reference. The final Terms of Reference and the agreed methodology shall be incorporated in “Description of Services” which shall form part of the contract.

2.37 The selected firm should not be allowed to substitute key staff, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment.² If this is not the case and if it is established that key staff were included in the proposal without conforming their availability, the firm may be disqualified, and the process continued with the next ranked firm. The key staff proposed for substitution shall have qualifications equal to or better than the key staff initially proposed.

2.38 As lump-Sum Contracts payments are based on delivery of outputs (or products), the offered price shall include all costs (staff time, overhead, travel, hotel, etc.). In the case of Time-based Contracts, payment is based on inputs (staff time and reimbursable) and the offered prices shall include staff rates and an estimation of the amount of reimbursable. Reimbursable are to be paid on actual expenses incurred at cost upon presentation of receipts. However, if the Procuring Entity wants to define ceilings for unit prices of certain reimbursable (like travel or hotel rates); the Procuring Entity should indicate the maximum levels of those rates in the RFP or define a per diem in the RFP. After the acceptance of the contract, the Procuring Entity shall promptly notify other firms on the short list that they were unsuccessful.

Publication of the Award of Contract

2.39 The information of the award of contract shall be communicated to all participating Consultants and published on the State Public Procurement Portal in accordance with the provisions of sub-section (3) of section 42 of the Act. It shall consist of the following information: (a) the names of all consultants who submitted proposals; (b) the technical points assigned to each consultant; (c) the evaluated prices of each consultant; (d) the final point ranking of the consultants; (e) the name of the winning consultant and the price,

² Define realistic proposal validity periods in the RFP and carrying out an efficient evaluation minimizes the risk.

duration, and summary scope of the contract. The same information shall be sent to the consultants who have submitted proposals.

Rejection of All Proposals and Re-invitation

2.40 The Procuring Entity will be justified in rejecting all proposals only if all proposals are nonresponsive because they present major deficiencies in complying with the Terms of Reference or if they involve costs substantially higher than the original estimate. In the latter case, the feasibility of increasing the budget, or scaling down the scope of services should be investigated.

Confidentiality

2.41 Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not officially concerned with the process, until the publication of the award of contract, except as provided in Para “Evaluation of Cost” and Para “Publication of the Award of Contract” of these guidelines.

Indemnification of Damages

2.42 The consultant will indemnify for any direct loss or damages accrue due to deficiency in services in carrying out Preparation of Detailed Project Report (DPR). Damages shall be imposed on the consultants for poor performance/deficiency in service as expected from the consultant and as stated in the Terms of Reference.

Blacklisting and Debarment

2.43 The Procuring Entity may take appropriate action under section 26 and section 56 of Act and as per rule 19 of these Rules in cases where Blacklisting and debarment proceedings, are required to be initiated against the Consultant.

APPENDIX 7

CHAPTER III

OTHER METHODS OF SELECTION

General

1.1 This chapter describes the selection methods other than Quality and Cost Based Selection, and the circumstances under which they

shall be resorted to. All the relevant³ provisions of chapter II (Quality and Cost Based Selection) shall also apply with respect to other methodologies of selection wherever competitive selection of Consultant is undertaken.

Quality Based Selection (QBS):

1.2 Quality Based Selection is appropriate for the following types of assignments:

- (a) Complex or highly specialized assignment for which it is difficult to define precise Terms of Reference and the required input from the consultant and for which the consultants are expected to demonstrate innovation in their proposals (for example, multi sectoral feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms etc.);
- (b) Assignments that have a high downstream impact and in which the objective is to have the best Consultant (for example, feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national significance, management studies of large government agencies); and
- (c) Assignment that can be carried out in substantially different ways, such that proposals will not be comparable (for example, management advice, and sector and policy studies in which the value of the services depends on the quality of the analysis).

1.3 In Quality Based Selection, the Request for Proposal may request submission of a technical proposal only (without the financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system). The Request for Proposal shall provide either the estimated budget or the estimated number of key staff time, specifying that this information is indicative only and that the consultant shall be free to propose their own estimates.

1.4 If technical proposals alone are invited, after evaluating the technical proposals using the same methodology as in Quality and

³ All provisions of Section II shall be applied with the modifications and suppressions required by the method for selecting consultants used in the specific case. Advertisements for expression of interest is not required when single – source selection is used.

Cost Based Selection, the Procuring Entity shall ask the consultant with the highest ranked technical proposal to submit a detailed financial proposal.

1.5 The Procuring Entity and the Consultant shall then negotiate the financial proposal⁴ and the contract. All other aspects of the selection process shall be identical to those of Quality and Cost Based Selection, including the publication of the award of Contract as described in paragraph 2.39 except that only the price of the winning firm is published.

1.6 If Consultants have been requested to provide financial proposals initially together with the technical proposals, safeguard shall be built in as in Quality and Cost Based Selection to ensure that the price proposal of only the selected firm is opened and the price proposal of the rest of the unselected firms are returned unopened, after the negotiations with the selected Consultant have been successfully concluded.

Selection under a Fixed Budget (FBS)

1.7 This method is appropriate only when the assignment is simple and can be precisely defined and where the budget is fixed.

1.8 The Request for Proposal shall indicate the available budget and request the consultant to provide their best technical and financial proposals in separate envelopes, within the budget.

1.9 The Terms of Reference should be particularly well prepared to make sure that the budget is sufficient for the consultants to perform the expected tasks.

1.10 Evaluation of all technical proposals shall be carried out first as in the Quality and Cost Based Selection method. Then the price proposals shall be opened in public, and prices shall be read out aloud.

1.11 Proposals that exceed the indicated budget shall be rejected.

1.12 The consultant who has submitted the highest ranked technical proposal among the rest shall be selected.

⁴Financial negotiations under QBS includes negotiations of all consultant's remuneration and other expenses.

Least-Cost Selection (LCS)

1.13 This method is appropriate for selecting consultants for assignments of a standard or routine nature (example: audits, engineering design of noncomplex works, and so forth) where well-established practices and standards exist.

1.14 Under this method, a “minimum” qualifying mark for the “quality” is established so that all the proposals above the minimum qualifying marks shall compete only on “cost”. Proposals, to be submitted in two envelopes, are invited from a short list.

1.15 Technical proposals are opened first and evaluated. Those securing less than the minimum qualifying marks⁵ (i.e. for this method, the minimum qualifying marks shall be 70 points or higher and the same shall be clearly mentioned in the RFP) are rejected and the financial proposals of the rest are opened in public and read aloud.

1.16 The firm with the lowest price shall then be selected.

Selection Based on the Consultants’ Qualifications (CQS)

1.17 This method may be used for relatively simple and small assignments (below the threshold to be notified by Directorate of Procurement Policy and Enforcement from time to time) for which the need for preparing and evaluating competitive proposals is not justified. In such cases, the Procuring Entity shall prepare the Terms of Reference, request expressions of interest and information on the consultants’ experience and competence relevant to the assignment, establish a short list, and select the firm with the most appropriate qualifications and references. The selected Consultant shall be asked to submit a combined technical-financial proposal. However, the Procuring Entity shall not split the assignment in any manner for resorting to such methodology.

1.18 The Procuring Entity shall publish on its website and that of the Government of Punjab, the name of the Consultant, to which the contract has been awarded, and the price, duration, and scope of the contract.

Single-Source Selection (SSS)

⁵This method shall not be used as a substitute for QCBS and shall be used only for the specific cases of very standard and routine technical nature where the intellectual component is minor

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(Refer to section 30 of the Act and Rule 23 of these Rules)

1.19 Single-source selection of consultants does not provide the benefits of competition in regard to quality and cost, lacks transparency in selection and could encourage unacceptable practices. Therefore, single-source selection shall be used only in exceptional cases. The justification for single-source selection shall be examined in the context of the overall interests of the Government and the project, and the Procuring Entity's responsibility to ensure economy and efficiency and provide equal opportunity to all qualified consultants.

1.20 Single-source selection may be appropriate only if it presents a clear advantage over competition: (a) for tasks that represent a natural continuation of previous work carried out by the firm (see next paragraph), (b) in emergency cases, such as in response to disasters and for consulting services required during the period of time immediately following the emergency, (c) for very small assignments, or (d) when only one firm is qualified or has experience of exceptional worth for the assignment.

1.21 When continuity of downstream work is essential, the initial Request for Proposal shall outline this prospect, and, if practical, the factors used for the selection for the consultant shall take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition subject to satisfactory performance in the initial assignment. For such downstream assignments, the Procuring Entity shall ask the initially selected consultant to prepare technical and financial proposals on the basis of Terms of Reference furnished by the Procuring Entity, which shall then be negotiated.

1.22 If the initial assignment was not awarded on a competitive basis or was awarded under tied financing or if the downstream assignment is substantially larger in value, a competitive process shall normally be followed in which the consultant carrying out the initial work is not excluded from consideration if it expresses interest. However, the Procuring Entity shall ensure that there is no conflict of interest as laid in Para 1.15 of these Guidelines and clause (h) of rule 2 of these Rules.

1.23 The Procuring Entity shall publish on its website and that of the Govt. of Punjab the name of the consultant to which the contract has been awarded and the price, duration, and scope of the contract.

Selection of Particular types of Consultants

1.24 *Selection of UN Agencies as Consultants:* UN agencies may be hired as the consultants, where they are qualified to provide technical assistance and advice in their area of expertise. However, they shall not receive any preferential treatment in a competitive selection process, except that Procuring Entity may accept the privileges and immunities granted to UN agencies and their staff under existing international conventions and may agree with UN agencies on special payment arrangements required according to the agency's charter, with the prior approval of the State Level Committee (SLC). To neutralize the privileges of UN Agencies, as well as other advantages such as tax exemption and facilities, and special payment provisions, the QBS method shall be used. UN agencies may be hired on a single-source selection basis if the criteria outlined in para on Single Source Selection of these Guidelines are fulfilled.

1.25 *Use of Non-Governmental Organizations (NGOs):* NGOs are voluntary non-profit organizations that may be uniquely qualified to assist in the preparation, management and implementation of projects, essentially because of their involvement and knowledge of local issues, community needs and/or participatory approaches. NGOs may be included in the short list if they express interest and provided that the Procuring Entity is satisfied with their qualifications. Procuring Entity should preferably not include consulting firms in the short list for services for which NGOs' are better qualified. For assignments that emphasize participation and considerable local knowledge, the short list may comprise entirely NGOs. If so, the QCBS procedure shall be followed, and the evaluation criteria shall reflect the unique qualifications of NGOs, such as voluntarism, non-profit status, local knowledge, scale of operation and reputation. Procuring Entity may select the NGO on a single-source basis, provided the criteria outlined in Para 3.19 to 3.23 above on Single Source Selection of these Guidelines are fulfilled.

1.26 *Procurement Agent (PAs):* When a Procuring Entity lacks the necessary organization, resources, or experience, it may be efficient

and effective for it to employ, as its agent, a firm that specializes in handling procurement. When PAs are specifically used as “agents” handling the procurement of specific items and generally working from their own offices, they are usually paid a percentage of the value of the procurements handled, or a combination of such a percentage and a fixed fee. In such cases PAs shall be selected using QCBS procedures with cost being given a weight up to 50 percent. However, when PAs provide only advisory services for procurement or act as “agent” for a whole project in a specific office for such project they are usually paid on a time basis, and in such cases, they shall be selected following the appropriate procedure for other consulting assignments using QCBS procedures and time-based contract, specified in these guidelines.

1.27 Inspection Agents: Procuring Entity may wish to employ inspection agencies to inspect and certify goods prior to shipment or on arrival. The inspection by such agencies usually covers the quality and quantity of the goods concerned and reasonableness of price. Inspection agencies shall be selected using QCBS procedures giving cost a weight up to 50 percent and using a contract format with payments basis on a percentage of the value of goods inspected and certified as per the laid out, well defined criteria of inspection and certification of such goods.

1.28 Financial Institutions: Investment and Commercial banks, financial firms, and fund managers hired by Procuring Entity for the sale of assets, issuance of financial instruments, and other corporate financial transactions, notably in the context of privatization operations, shall be selected under QCBS. The Request for Proposal shall specify selection criteria relevant to the activity—for example, experience in similar assignments or network of potential purchasers—and the cost of the services. In addition to the conventional remuneration (called a “retainer fee”), the compensation includes a “success fee”, this fee can be fixed, but is usually expressed as a percentage of the value of the assets or other financial instruments to be sold. The Request for Proposal shall indicate that the cost evaluation will take into account the success fee, either in combination with the retainer fee or alone. If alone, a standard retainer fee shall be prescribed for all short-listed consultants and indicated in the Request for Proposal, and the financial scores shall be based on the success fee. For the combined evaluation (notably for

large contracts), cost may be accorded a weight higher than recommended in paragraph 2.34 or the selections may be based on cost alone among those who secure a minimum passing marks for the quality of the proposal. The Request for Proposal shall specify clearly how proposals will be presented and how they will be compared.

1.29 However, the Request for Proposal shall specify that “success fee” is payable to the Consultant only after the success of the assignment (example: sale of asset or other financial instruments) and to the proportion of success (example: book value of the assets sold in comparison to the total book value of the assets as assessed in the Request for Proposal).

1.30 Auditors: Auditors typically carry out auditing tasks under well-defined TOR and professional standards. They shall be selected according to QCBS, with cost as a substantial selection factor (40-50 points) or by the “Least-Cost Selection” outlined in these Guidelines. For very small assignments CQS may be used.

APPENDIX 7

CHAPTER IV

SELECTION OF INDIVIDUAL CONSULTANTS

1.31 The services of the Consultants-either as individuals or hired through a Human Resources Agency should be obtained through a competitive process that is transparent and follows the principles established by the Act and these Rules.

1.32 The individual Consultants maybe based on critical appraisal of their experience, expertise and performance in circumstances similar to that of the Procuring Entity of Government of Punjab. For a quicker and easier method of remunerating the individual Consultants, the following fee structure could be adopted, subject however, to the Procuring Entity negotiating a rate lower than indicated below. However the rates below shall not be applicable when an individual consultant/expert is proposed as part of a firm that has been selected competitively:

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| Level | Qualification Criteria | Daily Fee Rate (in INR) | Monthly Fee Rate (in INR) |
|--------------------------|---|----------------------------|---|
| Senior Level Consultants | Professionals with high level of specialization and experience Education: Masters/Doctorate in the required discipline and from an eminent institution Essential Experience: More than 12 years at the top management level Required Experience: 6-8 years of Consultancy exposure to projects of high value and impact. | 6,000-8000 | 1,50,000-2,00,000 |
| Middle Level Consultants | Professional with middle level experience in relevant sector/function. Education: Graduate/Post-Graduate in the required discipline from reputed (National/State) institutions Essential Experience: 6 to 12 years at middle management level Required Experience: 3-4 years of Independent Consultancy experience. | 3,000-6,000 | 75,000-1,50,000 |
| Junior Professionals | Professional with experience in relevant sector/function Education: Graduate/Post-Graduate of required discipline from reputed (National/State) institutions Experience 3 to 5 years at entry management level | 1,800-3,000 | 45,000-75,000 |
| Fellowship | Professional with entry level sector/function. Education: Graduate/Post-Graduate of required discipline Experience: 1 to 2 years at entry management level from reputed (National/State) institutions. | 1,500-1,800 | 35,000-45,000 |
| Specialized Consultants | Professional with exceptional expertise in the required sector / function Education: Minimum Post-Graduate in the required discipline from reputed (State/National/ International institution) Experience 15 years or more in the required field of specialty | 9,500-20,000 | 2,00,000-5,00,000 (To be referred to the State Level Committee) |

1.33 The Daily/Monthly fee recommended for consultants is lump sum and no other additional allowances are allowed. If individual consultant is being contracted for total period of less than a month (25 days), the fee may be fixed on Daily Rate basis and if the total contract period exceeds a month (25 days) then the fee may be fixed on Monthly Rate basis. The total consultancy period, when hired on daily rate basis, may not exceed three month period on aggregate basis. In case it is necessary for consultancy period to exceed three months, when payment is done on daily basis, the concerned Procuring Entity may obtain the approval of the SLC.

1.34 All Specialized Consultants cases may be referred to the SLC for approval along with requirement, justification etc. For retired government employees of both central and state governments, the remuneration will be last pay drawn minus pension in accordance with the existing norms. The proposed remuneration are consolidated per month without any benefits or other facilities. The consultants will be extended a fixed twelve days of leave in a year (pro rata calculated vis-à-vis the period of contract). No other leave is permissible. Similarly, EPF and other benefits are not applicable to the consultants; and the concerned Procuring Entity may decide on the educational and essential and required experience norms for the consultant.

1.35 State Level Committee (SLC): A SLC for the above purposes shall comprise of the following-

- i. Chief Secretary (Chairman)
- ii. Administrative Secretary, Department of Finance
- iii. Administrative Secretary, Department of Planning
- iv. Administrative Secretary of the concerned Procuring Entity (Member-Secretary)

1.36 Procurement of individual consultants may be done by three methods.

- a) Empanelment Method
- b) Advertisement Method
- c) Single Source Method

1.37 Empanelment Method: Procuring Entity may establish a process of empanelment of consultants by requesting submission of detailed CVs (preferably provide CV Format), which it can assess and

qualify by expertise and consultant levels (as described above). When required, the Procuring Entity may identify at least six qualified consultants from the empanelment list and issue them the Terms of Reference and request them for technical proposal describing the approach and methodology to be adopted by them. Based on the assessment of the technical proposal, the consultant may be selected. Fee of the selected consultant may be fixed as per consultant level and criteria described above.

1.38 Advertisement Method: Procuring entity may advertise for the consultant on State Public Procurement portal, on Departmental website and through indicative publication in newspaper, or any other method notified by State Government from time to time by issuing the Terms of Reference. The consultants applying may be requested to submit detailed CV (preferably provide CV Format) and technical proposal describing the approach and methodology to be adopted by them responding to the Terms of Reference issued. The consultants applying may be requested to submit detailed CV (preferably provide CV Format) and technical proposal describing the approach and methodology to be adopted by them responding to the Terms of Reference issued. Based on the assessment of the technical proposal the consultant may be selected. Fee of the selected consultant may be fixed as per consultant level and criteria described above.

1.39 Single Source Method: The assignment represents a natural or continuation of a previous one awarded competitively by Procuring Entity and the performance of the individual consultant has been found good or excellent by the Procuring Entity and there is a need to extend the previous contract period which shall be certified with reasons for extending the period of contract by the competent authority of the Procuring Entity.

APPENDIX 7

CHAPTER V

TYPES OF CONTRACTS AND IMPORTANT PROVISION

Types of Contracts

5.1 Lump Sum Contract: Lump sum contracts are used mainly for assignments in which the content and the duration of the services and the required output of the consultants are clearly defined. They are widely used for simple planning and feasibility studies,

environmental studies, detailed design of standard or common structures, preparation of data processing systems and so forth. Payments are linked to outputs (deliverables), such as reports, drawing, bills of quantities, bidding documents, and software programs. Lump sum contracts are easy to administer because payments are due on clearly specified outputs.

5.2 Time-based contract: This type of contract is appropriate when it is difficult to define the scope and the length of services, either because the services are related to activities by others for which the completion period may vary, or because the input of the consultant required to attain the objectives of the assignment is difficult to assess. This type of contract is widely used for complex studies, supervision of construction, advisory services, and most training assignments. Payments are based on agreed hourly, daily, weekly, or monthly rates for staff (who are normally named in the contract) and on reimbursable items using actual expenses and/or agreed units prices. The rates for staff include remuneration, overhead costs and fee (or profit). This type of contract shall include a maximum amount of total payments to be made to the consultants. This ceiling amount should include a contingency allowance for unforeseen work and duration, and provision for price adjustments, where appropriate. Time-based contract needs to be closely monitored and administered by the Procuring Entity to ensure that the assignment is progressing satisfactorily, and that payment claimed by the consultants are appropriate.

5.3 Retainer and/or Contingency (success) Fee Contract: Retainer and contingency fee contracts are widely used when consultants (Banks or financial firms) are preparing companies for sales or mergers of firm, notably in privatization operations. The remuneration of the consultant includes a retainer and success fee, the latter being normally expressed as a percentage of the value of the assets or other financial instruments to be sold.

5.4 Percentage contract: These contracts are commonly used for architectural services. They may also be used for procurement agents/ inspection agents. Percentage contracts directly relate the fees paid to the consultant to the estimated or actual project construction cost, or the cost of the goods procured or inspected. The contracts are negotiated on the basis of marked norms for the services and/or estimated staff-month costs for the services, or competitive bid. It

should be borne in mind that in the case of architectural or engineering services, percentage contracts implicitly lack incentive for economic design and are hence discouraged. Therefore, the use of such a contract for architectural services is recommended only if it is based on a fixed target cost and covers precisely defined services (for example, works supervision.)

5.5 Indefinite Delivery Contract (Price Agreement: These contracts are used when Procuring Entity need to have “on call” specialized services to provide advice on an activity, the extent and timing of which cannot be defined in advance. These are commonly used to retain “advisers” for implementation of complex projects (for example, dam panel), expert adjudicators for dispute resolution panels, institutional reforms, procurement advice, technical troubleshooting, and so forth, normally for a period of a year or more. The Procuring Entity and the firm agree on the unit rates to be paid for the Consultants, and payments are made on the basis of the time actually used.

Important Provision

5.6 Price Adjustment: To adjust the remuneration for inflation, a price adjustment provision shall be included in the *beginning of the contract*.

5.7 Payment provisions: Payment provisions, including schedule of payments and payment procedures, shall be clearly defined in the Request for Proposal and these provisions, along with the amount to be paid shall be agreed upon and mentioned at the time of signing of the contract. Payments may be made at regular intervals (as under time-based contracts) or for agreed outputs (as under lump sum contracts). Payments for advances (for examples, for mobilization costs) exceeding 20 percent of the contract amount should normally be backed by advance payment securities.

5.8 Payments shall be made promptly in accordance with the contract provision. To that end, only disputed amounts shall be withheld, with the remainder of the invoice paid in accordance with the contract.

5.9 Conflict of Interest: The consultant shall not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and its affiliates shall not engage in

consulting or other activities that conflict with the interest of the Procuring Entity under the contract. The contract shall include provisions limiting future engagement of the consultant for other services resulting from or directly related to the firm's consulting services in accordance with the requirements of Paragraphs 1.15 and 1.16 above of these Guidelines.

5.10 Professional Liability: The consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. As the consultant's liability to the Procuring Entity will be governed by the applicable law, the contract need not deal with this matter unless the parties wish to limit this liability. If they do so, they should ensure that:

- (a) there must be no such limitation in case of the consultant's gross negligence or willful misconduct;
- (b) the consultant's liability to the Procuring Entity may in no case be limited to less than a multiplier of the total value of the contract to be indicated in the Request for Proposal and in the special conditions of the contract (the amount of such limitation will depend on each specific case);
- (c) any such limitation may deal only with the consultant's liability toward the Procuring Entity and not with the consultant's liability toward third parties; and
- (d) no such limitation shall be in conflict with the provisions of the Act and these Rules.

5.11 Staff Substitution: During an assignment, if substitution is necessary (for example, because of ill health or because a staff member proves to be unsuitable), the consultant shall propose other staff of at least the same level of qualification for approval by the Procuring Entity.

5.12 Applicable Law and settlement of Disputes: The Request for Proposal and the resulting contract shall include provisions for the settlement of disputes as per rule 44 of these Rules.

APPENDIX 7
CHAPTER VA
INSTRUCTIONS TO CONSULTANTS (ITC)

The Procuring Entity shall issue the following instructions to the consultant at the time of seeking RFP. The Instructions to Consultants shall include adequate information on the following aspects of the assignment:

- (a) a very brief description of the assignment;
- (b) standard formats for the technical and financial proposals;
- (c) the names and contact information of officials to whom clarification shall be addressed and with whom the consultant's representative shall meet. If necessary;
- (d) details of the selection procedure to be followed, including (i) a description of the two-stage process. If appropriate; and (ii) a listing of the technical evaluation criteria and weights given to each criterion; (iii) the details of the financial evaluation; (iv) the relative weights for quality and cost in the case of Quality and Cost Based Selection; (v) the minimum pass score for quality; and (vi) the details on the public opening of financial proposals;
- (e) an estimate of the level of key staff inputs (in staff-months) required of the consultants or the total budget, but not both;
- (f) indication of minimum experience, academic achievement, and so forth, expected of key staff;
- (g) the deadline for submission of proposals;
- (h) a statement that the firm and any of its affiliates shall be disqualified from providing downstream goods, works, or services under the project if, in the Government of Punjab's judgment, such activities constitute a conflict of interest with the services provided under the assignment;
- (i) the method in which the proposal shall be submitted, including the requirement that the technical proposals and financial proposals be sealed and submitted separately in a manner that shall ensure that the technical evaluation is not influenced by price;

- (j) a request that the invited firm (i) acknowledges receipt of the RFP and (ii) informs the Procuring Entity whether or not it will be submitting a proposal;
- (k) the short list of consultants being invited to submit proposals and whether or not associations between short-listed consultants are acceptable;
- (l) the period for which the consultants' proposals shall be held valid and during which the consultants shall undertake to maintain, without change, the proposed key staff, and shall hold to both the rates and total price proposed; in case of extension of the proposal validity period, the right of the consultants not to maintain their proposal;
- (m) the anticipated date on which the selected consultant shall be expected to commence the assignment;
- (n) if not included in the TOR or in the draft contract, details of the services, facilities, equipment, and staff to be provided by the Procuring Entity;
- (o) phasing of the assignment, if appropriate; and likelihood of follow-up assignments;
- (p) validity of proposal;
- (q) consultant to state cost in the national currency (INR);
- (r) number of copies of Technical Proposal, and the original of the Financial Proposal;
- (s) the procedure to handle clarifications about the information given in the RFP; and
- (t) any conditions for subcontracting part of the assignment;

APPENDIX 7
CHAPTER VB
GUIDANCE TO CONSULTANTS

Purpose

1. This chapter provides guidance to consultants wishing to provide consulting and professional services to the Government of Punjab.

Responsibility for Selection of Consultants

2. The responsibility for the implementation of the project, and therefore for the payment of consulting services under the project, rests solely with the Procuring Entity. As emphasized in Paragraph 1.13 above of these Guidelines, the Procuring Entity is responsible for the selection and employment of consultants. It invites, receives, and evaluates proposals and awards the contract. The contract is between the Procuring Entity and the consultant.

Consultant's Role

3. When consultants receive the Request for Proposal, and if they can meet the requirements of the Terms of Reference and the commercial and contractual conditions, they should make the arrangements necessary to prepare a responsive proposal. If the consultants find in the Request for Proposal documents-especially in the selection procedure and evaluation criteria-any ambiguity, omission or internal contradiction, or any feature that is unclear or that appears discriminatory or restrictive, they should seek clarification from the Procuring Entity, in writing, within the period specified in the RFP for seeking clarifications.

4. In this connection, it should be emphasized that the specific Request for Proposal issued by the Procuring Entity governs each selection, as stated in paragraph "Purpose" of these Guidelines. If consultants feel that any of the provisions in the Request for Proposal are inconsistent with the Guidelines, they should also raise this issue with the Procuring Entity.

5. Consultants should ensure that they submit a fully responsive proposal including all the supporting documents requested in the Request for Proposal. It is essential to ensure accuracy in the curricula vitae of key staff submitted with the proposals. The curricula vitae shall be signed by the consultants and the individuals with dates. Noncompliance with important requirements will result in rejection of the proposal. Once technical proposals are received and opened, consultants shall not be required nor permitted to change the substance, the key staff, and so forth. Similarly, once financial proposals are received, consultants shall not be required or permitted to change the quoted fee and so forth. If an extension of validity of proposals is the reason that the key staff is no longer available with the Consulting firm/company, a change of key staff with equivalent or better qualification is permissible.

Confidentiality

6. As stated in Paragraph 2.40 above of these Guidelines, the process of proposal evaluation shall be confidential until the publication of contract award, except for the disclosure of the technical points as indicated in paragraphs “Evaluation of Cost” and “Publication of Award of Contract” of these guidelines. Confidentiality enables the Procuring Entity to avoid either the reality or perception of improper interference. If, during the evaluation process, consultants wish to bring additional information to the notice of the Procuring Entity, they should do so in writing.

Form 'A'

[See rule 3]

RECORD KEEPING

The Procuring Entity shall also maintain the following records in manual and electronic form:

- 1. Vendor and Contractor Register:** contains vendor/ contractor information such as name, address, subject matter of trade, past performance ratings if any.
- 2. Procurement Register:** key information of progress at various stages of procurement operations, from receipt of indents till the issue of contract.
- 3. Procurement Order Guard Register:** an indexed register where one ink-signed copy of all orders issued by the Procuring Entity shall be compulsorily pasted in chronological order to be used as ultimate reference for indicating the authenticity of purchase orders as a check against tampering or fraud.
- 4. Procurement Order Progress Register:** it contains record of all procurement orders issued and progress of supplies against these contracts. It contains procurement order numbers, vendor/contractor name, brief description of procurement, total value of the order, delivery dates, actual dates of supply, and so on.
- 5. Stock Register:** it contains receipts of all procured goods delivered in good condition are recorded before certifying stock receipts on invoices or bills as required for audit purposes.
- 6. Asset Register:** it contains complete data about an item or asset handled in the past with details such as: code-number, category, description, specification, book rate, estimated annual , and replenishment data, inventory parameters (buffer stock, safety stock levels) to the extent relevant to goods, works or services.

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Form 'B'

[See rule 4]

**Notice for recovery of payment as per Section 7 (3) of the
Punjab Transparency in Public Procurement Act, 2019**

Date:

To

<Bidder/ Prospective Bidder Name>

< Bidder/ Prospective Bidder Address>

**Subject: Notice for recovery of payment as per Section 7 (3) of the
Punjab Transparency in Public Procurement Act, 2019**

Consequent to the breach of Clause of Code of Integrity as per Section 7 (2) of the Act, you are hereby directed to repay any payments made hereunder in reference to the Contract issued vide letter number..... dated, a brief summary of the contract details is as follows:

- (a) <Specify the contract details>
- (b) <Payment details>
- (c) <Other details, if any>

(2) As per Rule 4, you are hereby directed to repay an amount of Rs. (including interest) within 30 days from the date of issuance of this notice by way of demand draft in favour of <.....>.

(3) Penal interest shall be charged at the rate of 1% over and above the applicable interest rate, for every further delay of 30 days.

Signature

Name and Designation of the Head of Office

Name of the Procuring Entity

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Form 'C'

[See rule 5]

Performa for Determination of Need for Procurement

The Procuring Entity shall determine the need for procurement in the following

Performa:

| Sr.No. | Head | Details | Instructions/Guidelines to be referred by the Procuring Entity |
|--------|---|---|---|
| 1 | Description of the need/subject matter of procurement | <To be filled in by the Procuring Entity> | <ul style="list-style-type: none"> - Unambiguous, complete, use of common terminology prevalent in relevant trade. - Avoid using brand names/catalogue numbers or details that limit any material or item to specific manufacturer with an exception to single source procurement. |
| 2 | Nature of Procurement | <To be filled in by the Procuring Entity> | <ul style="list-style-type: none"> - Owning/leasing/hiring/outourcing/Joint Venture/ Public Private Partnership, etc. |
| 3 | Method of Procurement | <To be filled in by the Procuring Entity> | <ul style="list-style-type: none"> - Choose any of the methods with justification thereof as specified in the Act or Rules made thereunder. |
| 4 | Quantity of subject matter to be procured | <To be filled in by the Procuring Entity> | <ul style="list-style-type: none"> - The Procuring entity shall judiciously assess and take into account the budgetary allocations for determining the quantity to be procured. |
| 5 | Time Schedule | <To be filled in by the Procuring Entity> | <ul style="list-style-type: none"> - A tentative schedule (specifying the month)for procuring. |
| 6 | Cost Estimation | <To be filled in by the Procuring Entity> | <ul style="list-style-type: none"> - The Procuring Entity shall work out the estimated costs in realistic and objective manner with due diligence, this being a vital element in procurement process like approvals, establishing reasonableness of prices at the time of evaluation of bids, etc. |
| 8 | Technical Specifications | <To be filled in by the Procuring Entity> | <ul style="list-style-type: none"> - Where applicable, the technical specifications shall, to the extent practicable, be based on the National/ State technical regulations or recognized standards for building codes, wherever such standards exist, and in the absence, be based on the relevant international standards. |

Signature

Name and Designation of the Head of Office

Name of the Procuring Entity

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Form 'D'

[See rule 6(1)]

Format of Annual Procurement Plan

| Subject Matter | Time Period | Quantity | Estimated cost | Procurement method | Approved Budgetary Outlay |
|---|---|--|----------------|--------------------|---------------------------|
| <Either specify individual items OR do packaging of similar items and write them in the column> | <A tentative schedule (specifying the month) for procuring> | <Number of quantities to be purchased> | | | |

Note: The Procuring Entity can add any number of line items to the above Performa.

Signature

Name and Designation of the Head of Office

Name of the Procuring Entity

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Form 'E'

[See rule 6(2)]

Format of Annual Performance Review Report

Name of the Procuring Entity-----

Name of the Administrative Department of the Procuring Entity--

Financial Year of Annual Procurement Plan being reviewed-----

Annual Procurement Plan submission date-----

| Table 2 | | | | | | | | | | |
|--|------|----------|----------------|--------------------|---|------|----------|----------------|--------------------|-------------------------------|
| Annual Procurement Plan as submitted in Form 'D' | | | | | Actual Performance as against Annual Procurement Plan | | | | | Remarks for Deviation, if any |
| Subject Matter | Time | Quantity | Estimated cost | Procurement method | Subject Matter | Time | Quantity | Estimated cost | Procurement method | |
| | | | | | | | | | | |

Note: The Procuring Entity can add any number of line items to the above Performa.

Signature of the Competent Authority

FORM 'F'

[See rule 15]

Corrigendum

| | | |
|---------------------------|---|--|
| 1 | Tender Ref. No | |
| 2 | Tender Title | |
| 3 | Tender ID * | |
| 4 | Corrigendum Title * | |
| 5 Corrigendum Type * | | |
| 5a) Before Tender Opening | | 5 b) After Tender Opening |
| <input type="checkbox"/> | Date | <input type="checkbox"/> Fees <input type="checkbox"/> BOQ |
| | Technical Bid | Financial Bid |
| | Bid Openers | Terms |
| | & Conditions Cancellation of | |
| | Tender | Retender |
| | Technical Bid Opening Date Extension | Cancellation of Tender |
| | Others | |
| 5a1) | If Corrigendum Type is Date, Enter the appropriate change in date | |
| | DD / MM /YYYY | HH: MM |
| | Document Sale Start Date | <input type="text"/> |
| | Document Sale End Date | <input type="text"/> |
| | Seek Clarification Start Date | <input type="text"/> |
| | Seek Clarification End Date | <input type="text"/> |
| | Pre Bid Meeting Date | <input type="text"/> |
| | Bid Submission Start Date | <input type="text"/> |
| | Bid Submission End Date | <input type="text"/> |
| | Bid Opening Date | <input type="text"/> |
| 5a2) | If Corrigendum Type is Fee | |
| | (1) Tender Fee | |
| | Processing Fee | |
| | Surcharges | |
| | Other Charges | |
| | Tender Fee Payable To | |

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| | | | | |
|-------------|---|-----------------------------|---|-------------|
| | Tender Fee Payable At | | | |
| | (2) EMD Fee | <input type="radio"/> Fixed | <input type="radio"/> Percentage | |
| | If EMD is Fixed, enter Amount | | | |
| | If EMD is Percentage, enter % | | | |
| | EMD Exemption Allowed | <input type="radio"/> Yes | <input type="radio"/> No | |
| | EMD Payable To | | | |
| | EMD Payable At | | | |
| 5a3) | If Corrigendum Type is BOQ, Enter revised / New BOQ | | | |
| | File Name: | File Description: | | |
| | Type: | Size: | | |
| 5a4) | If Corrigendum Type is Bid Openers, enter new openers | | | |
| | | Name/Designation | Email-ID | |
| | BO1 | | <input type="checkbox"/> | |
| | BO2 | | <input type="checkbox"/> | |
| | BO3 | | <input type="checkbox"/> | |
| 5a5) | If Corrigendum is Tender Opening Date Postponement etc., | | New Date & Time DD / MM / YYYY HH: MM | |
| 6 | Corrigendum Document Shall be Uploaded for all Corrigendum Types | | | |
| | File Name | Description | Type | Size |
| | | | | |

Prepared By
Name/Designation

Approved By
Name/Designation

Date of Updation:
Seal of the office of the Tender Inviting Authority:

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Form 'G'

[See rule 19(2)]

Show Cause Notice to Bidder for Blacklisting

BY REGD. POST/SPEED POST/COURIER

No.

Date.....

To <Name of the Bidder>

<Address of the bidder>

Sub: Show Cause Notice

Ref:

Dear Sir,

You are hereby required to show cause in writing within 15 days from the date hereof why you shall not be blacklisted and be debarred from entering into any contracts with <Name of the Procuring Entity> for the following reasons:

(Give Reasons)

Your reply (if any) shall be supported by documents and documentary evidence which you wish to rely in support of you reply shall you fail to reply to this Show Cause Notice within the time and manner aforesaid, it will be presumed that you have nothing to say and we shall proceed accordingly.

Your reply, if any, and the documents / documentary evidence given in support shall; be taken into consideration prior to arriving at a decision.

Yours faithfully,

For & On behalf of Procuring Entity.

Form 'H'

[See rules 20, 23, 28]

**Purchase through method of procurement other than Open
Competitive Bidding**

| Particulars | Details |
|--|---------|
| Subject matter of procurement | |
| Estimated Monetary Value of procurement | |
| Other Method of procurement adopted | |
| Reasons/justification of other method of procurement | |
| Any other Detail, if required | |

Signature of Procuring Entity

Signature of Competent Authority [Rule 20/Rule 23 as applicable]

Signature of Administrative Department [Rule 20/Rule 28 as applicable]

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Form 'I'

[See rule 23(2)]

Proprietary Article Certificate

Valid for the Current Financial Year

| | | |
|--------------------------------|--|--------------------------|
| File Number and Date Reference | | |
| 1 | Description of article | |
| 2 | Forecast of quantity/annual requirement | |
| 3 | Approximate estimated value for above quantity | |
| 4 | Maker's name and address | |
| 5 | Name(s) of authorized dealers/stockists | |
| 6 | I approve the above purchase on PAC basis and certify that: -- Note-Tick to retain only one out of (b), (c-1) or (c-2) whichever is applicable and cross out others. Please do confirm (a) by ticking it – without which PAC certificate will be invalid. | |
| 6(a) | This is the only firm who is manufacturing/stocking this item And | <input type="checkbox"/> |
| 6(b) | A similar article is not manufactured/sold by any other firm, which could be Used in lieu OR | <input type="checkbox"/> |
| 6 (c-1) | No other make/brand will be suitable for following tangible reasons (like OEM/warranty spares): OR | <input type="checkbox"/> |
| | | |
| 6(c) | No other make/brand will be suitable for following intangible reasons (if PAC was also given in the last procurement cycle, please also bring out efforts made since then to locate more sources): OR | <input type="checkbox"/> |
| | | |
| 7 | Reference of concurrence of finance wing to the proposal: | |

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| History of PAC purchases of this item for past three years may be given below | | | |
|---|------------------|------------------------------|--|
| Name of the Supplier | | | |
| Order/Tender Reference & Date | Quantity Ordered | Basic Rate on Order (Rs.) | Adverse Performance Reported if Any |
| | | | |

Signature of Approving Authority.....

Date.....

Designation of Officer.....

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Form 'J'

[See rule 27]

Purchase through Spot Purchase

“Certified that I, the Purchase Committee is satisfied that the
goods recommended for purchase are of the requisite
specification and quality, priced at the prevailing market rate and
the supplier recommended is reliable and competent to supply the
goods in question, and it is not Blacklisted as per section 26 of
the Act”

Signature of Purchase Committee

Signature of Competent Authority

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Form 'K'

[See rule 31&Appendix 6]

Certificate to be furnished by Project Proponent

It is hereby certified that:

1. The _____ (Name of project) has been submitted by the undersigned as the duly authorized representative of _____ (Name of Project Proponent) under the Swiss Challenge Method.
2. The Project Proponent shall support fair competition through open bidding process to obtain the most advantageous bid.
3. The Project Proponent agrees to the standard project structure, Bidding Documents, concession agreement as decided by the Administrative Department / Government of Punjab.
4. The Project Proponent agrees to abide by the Regulatory Authority, as and when formed by the Government of Punjab or through legislation applicable.
5. The Project Proponent agrees that the Administrative Department concerned reserves the right to call off the project prior to receiving the approval on detailed and comprehensive proposal from State Level Empowered Committee without assigning any reason to the Project Proponent.
6. In case, the Administrative Department intends to call off the project after receiving approval on detailed and comprehensive proposal from State Level Empowered Committee, it shall seek approval for the same from the State Level Empowered Committee.
7. The Project Proponent is technically and financially competent to handle the project implementation for which the proposal has been submitted.
8. The Project Proponent understands and agrees that if the Project Proponent fails to submit the Detailed Proposal/Detailed Project Report within the stipulated period given by the Administrative Department for the same, then, the Administrative Department may at its discretion exercise the option to develop the project on its own, through its agencies or through any third party, without the Project Proponent having any claims, whatsoever.
9. The Project Proponent agrees to abide by the provisions of the Punjab Transparency in Public Procurement Act, 2019 and Punjab Transparency in Public Procurement Rules, 2022.

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10. That my above statements are true and correct to the best of my
knowledge and belief.

Dated:

Signature:

Name and Designation of Authorized Representative of Project

Proponent:

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FORM 'L'

[See rule 31 and Appendix6]

Details of Proposal by Project Proponent

Name of the Project Proponent:

Name of the Project:

| S No. | Description | Yes / No (wherever applicable) | Particulars | Reference/ Form |
|--|--|--------------------------------------|-------------|-----------------|
| General Information on the Project: | | | | |
| 1.1. | Define/Brief the Project Proposal | | | |
| 1.2. | Explain the uniqueness of the project i.e. the reasons for its being unique. | | | |
| 1.3. | Characteristics of the Project | | | |
| 1.4. | Cost of the Project and Other Details | | | |
| 1.5. | State whether the letter has been submitted by the Project Proponent adhering the conditions of the Swiss Challenge Method | | | |
| Assessment of Need of the project | | | | |
| 2.1. | Nature of intended use | | | |
| 2.2. | Justification of need | | | |
| Details on technology (applicable in case of new technology) | | | | |
| 3.1. | Details of technology used for the project | | | |
| 3.2. | Is the technology proprietary? (a) Why shall govt. go for this technology only? (b) What if sourcing of another technology has to be made in future during the life of the project for any reason? | | | |
| Need for Govt. Support | | | | |
| 4.1 | State the type of govt. support required, if any, | | | |

| | | | | |
|---|---|--|--|--|
| 4.2 | and why? Will the proponent be able to raise necessary funds & equity to undertake the project? (State how) | | | |
| Eligibility of the proponent to undertake the project | | | | |
| 5.1 | Is proponent planning to undertake the project on its own or through a consortium to meet the technical, financial and technological needs? Please Elaborate. | | | |
| Project Structure & Output | | | | |
| 6.1. | Whether the model (BOOT, BOT etc.), concession period, if any, been mentioned in the report? | | | |
| 6.2. | Service/ Output levels (Specify if applicable) | | | |
| Project Financials | | | | |
| 7.1. | User Fee, Tariff/ fares (Specify) and their variation with time | | | |
| 7.2. | Provide all IRR details and provide NPV of the project from income from operations and other forms. | | | |
| Clearance / Approvals | | | | |
| 8.1. | State whether the environmental assessment is required for the project | | | |
| 8.2. | State whether the Project Proponent has mentioned all related approvals (Statutory or otherwise) required for the project. | | | |
| Qualifications of Project Proponent | | | | |
| 9.1. | State whether the proponent has the technical competence for undertaking the Project? If yes, how? | | | |
| 9.2. | State whether the proponent has the financial competence for undertaking the Project? If | | | |

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| yes, how? | | Any other | |
|-----------|---|-----------|--|
| 10.1. | Any other item/ observation which the proponent feels additionally relevant to mention. | | |
| 10.2. | Whether the Project Proponent agrees to come under the regulatory authority as and when formed by the Govt. or through law? | | |
| 10.3. | Is this a conditional proposal? Please specify | | |

Note:

1. While preparing this Form, the placement of relevant references in the proposal have been indicated above.
2. Appropriate response to queries in Yes/ No, where applicable, has been given and details, as required, have been elaborated under 'Particulars' column.
3. It is agreed that the above form could be modified, or additional information sought by the Administrative Department concerned at any time in future.
4. The above Form is provided in signed hard copy and also in soft copy.
Signature of the Head of the Organization / Agency (Project Proponent)
with Stamp and Date

Signature of the Head of the Organization
/ Agency (Project Proponent)
with Stamp and Date

FORM 'M'

[See rule 31 and Appendix6]

Contents of Detailed Project Report

1. Executive Summary
2. Project profile
 - (a) Project objectives
 - (b) Project sponsors
 - (c) Project location
3. Proposed business profile
 - (a) Product mix
 - (b) Estimated production and investments
4. Market analysis
 - (a) Current scenario
 - (b) Demand assessment
 - (c) Strategies
 - (d) Growth drivers
 - (e) SWOT analysis
5. Establishing the need of the project
 - (a) Detailed explanation of uniqueness of the project
 - (b) Demonstration of Public Need
 - (c) Demonstration of being in compliance with plans of Department
 - (d) Demonstration of no conflict with any Departmental scheme which provides the same service
6. Policy support and activities
 - (a) Government initiatives
 - (b) Special government schemes
 - (c) Policy packages
7. Land and site analysis
 - (a) Site location
 - (b) Land ownership and land cost
 - (c) Geographical conditions
8. Proposed master plan, technical specifications & project cost estimates
 - (a) Utility relocation plan
 - (b) Engineering surveys and investigations
 - (c) Layout plans and drawings
 - (d) Proposed common infrastructure, facilities etc.
 - (e) Design criteria and spatial requirements
 - (f) Preparation of BOQ
 - (g) Technical parameters, specifications and drawings

- (h) Cost estimates of the project
- 9. Project means of finance & financial appraisal
 - (a) Means of financing
 - (b) Appraisal framework and objectives
 - (c) Financial projections
 - (d) Value for Money analysis (if applicable)
- 10. Identification of risks
 - (a) Risk identification
 - (b) Risk allocation and mitigation techniques
- 11. Economic benefits of the project
- 12. Environment assessment (if applicable)
 - (a) Environmental impact assessment
 - (b) Social assessment
 - (c) Project related approvals
- 13. Project structure and implementation schedule
 - (a) Framework for project implementation
 - (b) Contractual framework
 - (c) Role of project consultant and Project Proponent
 - (d) Model concessionaire agreement
- 14. Project operation and maintenance Operation and maintenance framework
- 15. Any other approvals (statutory or otherwise) required to be taken from Government of Punjab / Government of India/any other authority.
- 16. List of Forms (To be submitted as applicable)
 - (a) Memorandum and articles of association
 - (b) List of participating entrepreneurs
 - (c) Land documents (if any)
 - (d) Draft shareholders agreement
 - (e) Draft leave and license agreement
 - (f) Draft procurement process
 - (g) Any other documents as required by the Administrative Department concerned.

Form 'N'

[See rule 31&Appendix6]

**Submission of detailed and comprehensive proposal by Project Proponent
(Hard Copy and Soft Copy)**

| S No. | Item | Response | Ref./Form |
|-------|--|----------|-----------|
| 1 | General | | |
| 1.1 | Name of the Project | | |
| 1.2 | Type of PPP (BOT, BOOT, BOLT, OMT etc.), if applicable | | |
| 1.3 | Location (State/District/Town) | | |
| 1.4 | Administrative Department concerned | | |
| 1.5 | Name of the Implementing Agency/Proponent | | |
| 1.6 | Concession Period | | |
| 2 | Project Description | | |
| 2.1 | Brief description of the project | | |
| 2.2 | Justification for the project (Need) | | |
| 2.3 | Possible alternatives, if any | | |
| 2.4 | Estimated capital costs with break-up under major heads of expenditure. Also indicate the basis of cost estimation. | | |
| 2.5 | Investment phasing | | |
| 2.6 | Project Implementation Schedule (PIS) | | |
| 3 | Financing Arrangements | | |
| 3.1 | Sources of financing (equity, debt etc.) | | |
| 3.2 | Indicate the revenue streams of the Project (Annual flows over project life). Also indicate the underlying assumptions | | |
| 3.3 | Indicate the NPV of revenue streams | | |
| 3.4 | Tariff/ user charges? Please specify in detail. | | |
| 3.5 | Have any FIs been approached? If yes, their response may be indicated | | |
| 3.6 | Value for Money Analysis | | |
| 4 | Internal Rate of return (IRR) | | |
| 4.1 | Economic IRR (if computed) | | |
| 4.2 | Financial IRR, indicating various assumptions (attach separate sheet if necessary) | | |
| 5 | Clearances | | |
| 5.1 | Status of environmental clearances | | |
| 5.2 | Clearances/approvals (statutory or otherwise) required from | | |

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| | | | |
|-----|--|--|--|
| 5.3 | Government of India, State Government and other authorities/local bodies Other support required from the State Government | | |
| 6 | Support from Govt. of Punjab | | |
| 6.1 | Viability Gap Funding, if required | | |
| 6.2 | Govt. of Punjab guarantees being sought, if any | | |
| 7 | Concession Agreement | | |
| 7.1 | Is the Concession Agreement based on MCA? If yes, indicate the variations, if any, in a detailed note (to be attached) | | |
| 7.2 | Details of Concession Agreement (To be attached along with the submission) | | |
| 8 | Remarks if, any | | |

1. While preparing this format, the placement of relevant references / Form in the detailed proposal has been mentioned as above.
2. It is agreed that the above format could be modified, or additional information sought by the Administrative Department concerned at any time in future.
3. The above Form is provided in signed hard copy and separately in soft copy also.

Signature of the Head of the Organization
(Project Proponent) with date and stamp

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Form 'O'

[See rule 31&Appendix6]

Project Financial Summary

| S No. | Item | Response |
|-------|--|----------|
| 1 | General | |
| 1.1 | Name of the Project | |
| 1.2 | Type of PPP (BOT, BOOT, BOLT, OMT etc.), if applicable | |
| 1.3 | Capacity of the Project | |
| 1.4 | Concession Period | |
| 2 | Project cost | |
| 2.1 | Land cost | |
| 2.2 | Building cost | |
| 2.3 | Plant & Machinery cost | |
| 2.4 | Operation & maintenance cost | |
| 2.5 | Other Costs if any | |
| 3 | Financing Arrangements | |
| 3.1 | Financing Structure (% of equity and debt) | |
| 3.2 | Interest on debt (Assumed) | |
| 3.3 | Is any financial support from GoP required? | |
| 4 | Revenue streams for each Concession Year | |
| 4.1 | Revenue from Tariff. | |
| 4.2 | Revenue from Advertising | |
| 4.3 | Other Revenue Streams | |
| 4.4 | Indicate the NPV of revenue streams with 12% discounting | |
| 5 | IRR | |
| 5.1 | Economic IRR (if computed) | |
| 5.2 | Equity IRR | |
| 5.3 | Project IRR | |
| 6 | Other remarks, if any | |

Excel sheet format to be provided for year-wise information (as applicable) for the concession period.

Signature of the Head of the Organization
(Project Proponent)

with date and stamp

Schedule 1

[See rule 13]

[The Schedule 1 appended to these Rules is a guiding Bidding Document which is non-exhaustive and non-restrictive. The Procuring Entity while preparing the Bidding Document shall have the flexibility to add/modify or delete any clause/form provided in the Schedule 1 as per their requirements.]

Schedule 1

Part A

Preparing Bidding Document

1. Preparation of Bidding Document. -The text of the Bidding Document shall be self-contained and comprehensive without any ambiguity. All essential information, which a bidder needs for sending responsive bid, shall be clearly spelt out in the Bidding Document in simple language.

The Bidding Document shall necessarily address the following essential aspects in consonance with the relevant provisions of the Act and these Rules:

- (1) Description of the subject matter of procurement, its specifications including the nature, quantity, time and place or places of delivery;
- (2) Limitation or preference for participation by bidders in terms of the Government policies;
- (3) The criteria for eligibility and qualification to be met by the bidder (the eligibility criteria shall take care of the supplier's eligibility to receive such a Government contract. The qualification criteria shall take care of the supplier's past performance, experience, technical competence and production capacity of the subject goods, financial strength to handle the contract successfully, compliance with environmental protection regulations/ Environment Management System and so on);
- (4) There are no such qualifications for the bidders that would be advantageous to the foreign manufactured goods at the cost of domestically manufactured goods;
- (5) The procedure along with details such as date, time and place for obtaining, submitting and opening of the bids;
- (6) Terms of delivery/completion;
- (7) Suitable provisions for enabling a bidder to seek clarification with respect to the bidding conditions, bidding process etc. These provisions shall include a time frame in which Procuring Entity will address the bidder's queries;

- (8) Criteria for determining the responsiveness of bids, criteria as well as factors to be taken into account for evaluating the bids on a common platform and the criteria for awarding the contract to the responsive, most advantageous (lowest/highest as the case may be) bidder shall be clearly indicated in the Bidding Documents. The Bidding Document shall include a clause that "if a firm quotes NIL charges/consideration, the bid shall be treated as unresponsive and will not be considered";
 - (9) Suitable provision for settlement of disputes, if any, emanating from the resultant contract, shall be kept in the Bidding Document
 - (10) Essential terms of the procurement contract including a suitable clause mentioning that the resultant contract will be interpreted under Indian laws.
- 2. Contents of Bidding Documents.** -The main sections of the Bidding Document shall be:
- (1) Notice Inviting Bid (NIB);
 - (2) Instructions to Bidders (ITB);
 - (3) Eligibility and qualification criteria
 - (4) Schedule of requirements/work requirements
 - (5) Technical specifications (including Drawings) and Quality Assurance (Inspections and Tests);
 - (6) General Conditions of Contract (GCC);
 - (7) Special Conditions of Contract (SCC)
 - (8) Format for Bid Covers, Contract Forms
- 3. Notice Inviting Bid (NIB).** -The NIB shall be brief but must contain sufficient detail for a prospective bidder to decide whether to participate in the bidding or not and, if he decides to participate, how to go about it. To ensure competition and widest possible publicity, the NIB shall be published on the State Public Procurement Portal; and Departmental website. The NIB shall contain the following information:
- (1) Name of the Procuring Entity
 - (2) Brief description of the subject matter of procurement
 - (3) Bid Security Details [or could be provided in ITB]
 - (4) Cost of document/tender fee [or could be provided in ITB]
 - (5) Period of availability of tender online
 - (6) Start date and time for submission of bids
 - (7) Last date and time for submission of bids online
 - (8) Date and time of opening of bid

(9) Signature of the Procuring Entity (DSC)

(10) Any other detail, if required

In case of procurement through a limited tender, the NIB may be uploaded on State Public Procurement Portal and Departmental website with a note saying: "This notice is being published for information only and is not an open invitation to quote in this limited tender. Participation in this tender is by invitation only and is limited to the selected Procuring Entity's registered suppliers. Unsolicited offers are liable to be ignored. However, suppliers who desire to participate in such tenders in future may apply for registration with Procuring Entity as per procedure."

4. Instruction to Bidders (ITB). -ITB contain all relevant information as well as guidance to the prospective bidders regarding all aspects of obtaining Bidding Documents and preparing and submitting a responsive bid. It also mentions the process of establishing the eligibility of the bidder as well as evaluation and comparison of bids and award of contract. Instruction to Bidders shall not contain information on processes after the announcement of the award which shall be covered in General Conditions of Contract, for example, the arbitration clause, resolution of disputes, and so on. Important clauses of ITB which may be included in the Bidding Document are:

(1) Purchase Preference Policies: If the purchaser intends to give a purchase preference in line with section 13 of the Act, this fact must be declared in the Instructions to Bidders and in Notice Inviting Bid as well.

(2) Pre-bid Clarification:

(a) A prospective bidder requiring clarification on the Bidding Documents may notify to Procuring Entity well before the due date of submission of bids, and a response will be sent to the clarifications sought prior to the date of opening of bids as per the procedure prescribed on e-Procurement Portal or specified in Instruction to Bidders. The Procuring Entity can also mention the clarification start date and time and clarification end date and time, if required.

(b) In case of turnkey contract(s) or contract(s) of special nature for procurement of sophisticated and costly equipment or wherever felt necessary, a suitable provision is to be kept in the Bidding Documents for

one or more rounds of pre-bid conference for clarifying issues and clearing doubts, if any, about the specifications and other allied technical details of the plant, equipment and machinery etc. projected in the Bidding Document. The date, time and place of pre-bid conference shall be indicated in the Bidding Document. This date shall be sufficiently ahead of bid opening date. The records of such pre-bid conference shall be intimated to all bidders and, shall also be exhibited on the website(s) where tender was published.

(3) Amendment of Bidding Documents:

- (a) At any time prior to the deadline for submission of Bids, the Procuring Entity may amend the Bidding Documents by issuing Addendum/Corrigendum. The corrigendum will appear on the e-Procurement Portal and email notification may also be sent automatically to those Bidders who have downloaded the Tender.
- (b) Any Addendum/Corrigendum thus issued shall be part of the Bidding Documents and deemed to have been communicated to all the Bidders. Bidders are advised to check the e-procurement website for any Addendum/Corrigendum. The Procuring Entity shall not be held responsible in any manner if prospective Bidders miss any Addendum/Corrigendum published on the e-Procurement Portal.
- (c) In order to give reasonable time to prospective Bidders to take necessary action in preparing their Bids, the Procuring Entity may, with the approval of Competent Authority, extend the deadline for the submission of Bids, and other allied time frames, which are linked with such deadline.

- (4) Bid Validity: A bid shall remain valid for a period of 90 days and shall be mentioned in the Instruction to Bidders. In exceptional circumstances, the consent of the bidder may be requested in writing for an extension to the period of bid validity. Such requests shall preferably be made much before the expiry of the bid validity. The bid security provided shall also be suitably extended. A bidder accepting the request and granting extension shall not be permitted to modify his bid.

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(5) Bid Security:

- (a) To safeguard against a bidder's withdrawing or altering its bid during the bid validity period in the case of advertised or limited tender enquiry, Bid Security (also known as Earnest Money) is to be obtained from the bidders.
- (b) Amount of bid security shall ordinarily range between two percent to five percent of the estimated value of the goods to be procured. The amount of bid security shall be determined accordingly by the Procuring Entity and indicated in the Bidding Documents.
- (c) Bid Security shall be submitted in electronic format online (NEFT/RTGS/Internet Banking or any other online mode available on e-Procurement Portal).

(6) Forfeiture of Bid Security:

- (a) The Bid security deposited by a bidder shall be forfeited in the following cases, namely: - (i) when the bidder withdraws or modifies its bid after opening of bids;
- (ii) when the bidder, after being selected for award of contract, does not deposit the required performance security within the specified period; and
- (iii) if the bidder breaches any provision of code of integrity prescribed for bidders as specified under section 7 of the Act.

(7) Withdrawal, Substitution and Modification of Bids: The bidder, after submitting the bid, is permitted to withdraw, substitute or modify the Bid on e-Procurement Portal before the deadline for submission of Bids. Any such request received after the prescribed date and time of receipt of Bids will not be considered. No bid may be withdrawn in the interval between the deadline for submission of bids and expiration of the period of bid validity. Withdrawal of a bid during this period will result in forfeiture of the bidder's Bid Security and other sanctions.

(8) Eligibility/Qualification/Evaluation Criteria: If it is intended to use eligibility/qualification/evaluation criteria to evaluate a Bid and determine whether a bidder has the required qualifications, this point may be clearly specified in Notice Inviting Bid, Instruction To Bidders or as a separate section of the Bidding Document. The bidder has

to ensure that he provides convincing proof of having fulfilled these criteria. Any criteria not specified in the Bidding Document cannot be used for evaluation or qualification.

(9) Sustainable and Green Public Procurement: While specifying the evaluation criteria, the Procuring Entity may consider assigning of the preferential points for the bidder who meets the Sustainable or Green Public Procurement t qualifying criteria stipulated in the Bidding Document.

(a) Sustainable Public Procurement: Sustainable Public Procurement is a process by which procurement entities seek to achieve the appropriate balance between the three pillars of sustainable development- economic, social and environmental-when procuring goods, services or works at all stages of the procurement cycle including contract management.

(b) Green Public Procurement: Green Public Procurement means that procurement entities seek to purchase goods, services and works with a reduced environmental impact throughout their life-cycle compared to goods, services and works with the same primary function which would otherwise be procured.

(10) Conflict of Interest among Bidders/Agents: A bidder shall not have conflict of interest with other bidders. Such conflict of interest can lead to anti-competitive practices to the detriment of Procuring Entity's interests. The bidder found to have a conflict of interest shall be disqualified. A bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if:

- (a) they have controlling partner (s) in common; or
- (b) they receive or have received any direct or indirect subsidy/financial stake from any of them; or
- (c) they have the same legal representative/agent for purposes of this bid; or
- (d) they have relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another bidder; or
- (e) Bidder participates in more than one bid in this bidding process. Participation by a bidder in more than one Bid will result in the disqualification of all

bids in which the parties are involved. However, this does not limit the inclusion of the components/sub-assembly/assemblies from one bidding manufacturer in more than one bid.

(f) Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the contract that is the subject of the Bid;

(g) in case of a holding company having more than one independently manufacturing units, or more than one unit having common business ownership/management, only one unit shall quote. Similar restrictions would apply to closely related sister companies. Bidders must proactively declare such sister/common business/ management units in same/similar line of business.

(11) Schedule of Requirements/Works:

(a) Schedule of Requirements: This shall have all information related to Goods and related services including technical specifications and allied requirements, delivery schedule and name(s) and address(es) of Consignee(s) and any specific inspection and testing requirements.

(b) Works Requirements: This shall have all information related to works including Bill of Quantities, technical specification, Drawings and supplementary information, completion schedule etc.

(12) The Procuring Entity shall mention in the bidding document any increase/decrease of the quantity of subject matter of procurement in the scope of work as per the CVC guidelines/financial guidelines issued from time to time.

(13) Grievance Redressal, Appeals, Repeals and Savings: The name of the officer designated by the Procuring Entity under sub-section (1) of Section 49 shall be specified here.

5. General Conditions of Contract & Special Conditions of Contract (GCC & SCC). -The GCC to be used for contracting for procurement are provided in Procuring Entity's Bidding Document. GCC covers all information on aspects after the announcement of the tender award till the closure of the contract and dispute resolution. It shall not

cover any aspect up to announcement of award. Instead of modifying the GCC every time, any changes warranted by special circumstances may be indicated in a separate SCC with the prior approval of the CA and GCC may be included unchanged in every Bidding Document. It is also to be indicated therein that the provisions in the SCC will supersede the corresponding provisions in the GCC. The following clauses could be provided under the GCC/SCC:

- (1) Contract documents: Subject to the order of precedence set forth in the Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole.
- (2) Governing Law: Throughout the execution of the Contract, the Contractor shall comply with applicable Laws of India.
- (3) Code of Integrity and Corrupt and Fraudulent Practices
 - (a) The Procuring Entity and all officers or employees of the Procuring Entity, whether involved in the procurement process or otherwise, or Contractor and their representatives or service providers participating in execution of the contract or other persons involved, directly or indirectly in any way in execution of the contract shall maintain an unimpeachable standard of integrity and refrain from Fraud and corruption.
 - (b) All personnel of Procuring Entity and Contractor and their representatives concerned with the entire execution of Contract including supply of Goods and Related Services may refer to provisions of Section 7 and Chapter XII of 'The Punjab Transparency in Public Procurement Act, 2019' in this regard. Any breach of code of integrity and corrupt and fraudulent practices shall attract provisions in the Act and the Rules.
- (4) Procedure for settlement of disputes: Disputes arising during the execution of contract shall be settled through amicable settlement by arbitration as prescribed in the Arbitration Act 1996 and the Arbitration and Conciliation (Amendment) Act, 2015 and same shall be specified in the conditions of contract.

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- (5) Inspections and Audit by the Government of Punjab:
The Supplier shall permit, and shall cause its Subcontractors to permit, the Govt. of Punjab and/or persons appointed by the Govt. of Punjab to inspect the Supplier's offices and all accounts and records relating to the performance of the Contract and the submission of the bid, and to have such accounts and records audited by auditors appointed by the Govt. of Punjab, if requested.
- (6) Terms of payment: The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the conditions of contract
- (7) Taxes and Duties: The Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Procuring Entity.
- (8) Performance Security/Performance Bank Guarantee:
- (a) If required as specified in the conditions of contract, the Supplier shall, within fifteen (15) days of the notification of contract award, provide a performance security for due performance of the Contract in the amount specified in the conditions of contract.
 - (b) The proceeds of the Performance Security shall be payable to the Procuring Entity as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
 - (c) The Performance Security if required and specified in conditions of contract shall be in Indian Rupees; and shall be in one of the formats stipulated by the Procuring Entity in the conditions of contract.
 - (d) Performance Security shall remain valid till the completion of the contract.
 - (e) The Performance Security shall be discharged by the Procuring Entity and returned to the Supplier not later than twenty-eight (28) days following the date of Completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the conditions of contract.
 - (f) In case any firm fails to abide by any terms & conditions of the tender or contract; its performance

security will be liable to be forfeited and shall bear the loss as per conditions.

- (9) Liquidated Damages: If the Supplier fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the Procuring Entity may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of the price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in the SCC. Once the maximum is reached, the Procuring Entity may terminate the Contract

- (10) Force Majeure:

- (a) The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- (b) For purposes of this Clause, "Force Majeure" means an exceptional event or circumstance:
- (i) which is beyond a Party's control,
 - (ii) which such Party could not reasonably have provided against before entering into the Contract,
 - (iii) which, having arisen, such Party could not reasonably have avoided or overcome, and
 - (iv) which is not substantially attributable to the other Party.
- (c) Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (i) to (iv) above are satisfied:
- (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
 - (ii) rebellion, terrorism, sabotage by persons other than the Contractor's Personnel, revolution, insurrection, military or usurped power, or civil war,
 - (iii) riot, commotion, disorder, strike or lockout by persons other than the Contractor's Personnel,

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(iv) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, critical health or environmental emergencies such as a pandemic and

(v) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.

(d) If a Force Majeure situation arises, the Supplier shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

(11) Termination

(a) Termination for Default: The Procuring Entity, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:

- (i) if the Supplier fails to deliver any or all of the Goods/Services/Works within the period specified in the Contract, or within any extension thereof granted by the Procuring Entity
- (ii) if the Supplier fails to perform any other obligation under the Contract; or
- (iii) if the Supplier, in the judgment of the Procuring Entity has violated Code of Integrity and/or engaged in fraud and corruption, in competing for or in executing the Contract.

(b) Termination for Insolvency: The Procuring Entity may at any time terminate the Contract by giving notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Procuring Entity

(c) Termination for Convenience: The Procuring Entity, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The

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notice of termination shall specify that termination is for the Procuring Entity's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.

<Format for Bid Covers>

Schedule 1

Format 1

Letter of Bid

(To be used only in case of Single Envelope process and not to be used for Two Envelope process)

The Bidder must prepare the Letter of Bid on stationery with its letterhead clearly showing the Bidder's complete name and address.

Note: All italicized text is for use in preparing the form and shall be deleted.

Date of this Bid submission: *[insert date (as day, month and year) of Bid submission]*

Notice Inviting Bid No.: *[insert identification]*

To:

[insert complete name of Procuring Entity]

We, the undersigned, declare that:

1. We have examined and have no reservations to the Bidding Documents, including Addenda/Corrigenda issued in accordance with Instructions to Bidders;
2. We meet the eligibility requirements as per Instructions to Bidders;
3. We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedule specified in the Schedule of Requirements the following Goods and related services:
..... *[insert a brief description of the Goods/Services/Works]*;
4. The total price of our Bid, excluding any discounts offered in Para (5) below is:

(i) Total all-inclusive Price of each Lot of goods as per technical specifications given in 'Schedule of

Requirements' is (in Rupees) [insert the total price of the Bid in words and figures]

(ii) Total all-inclusive price of related services applicable for the same Lot as in (i) above and specified in '**Schedule of Requirements'** is (in Rupees) [insert the total price of the Bid in words and figures]

(iii) Bid Price for each Lot of Goods/Services/Works (Grand Total of (i) & (ii) above) is (in Rupees) [insert the total price of the Bid in words and figures]

[Insert one of the options below as appropriate]

Option 1, in case of one lot:

Bid Price (Grand Total of (i) & (ii) above) is
(in Rupees) [insert the total price of the Bid in words and figures];

Or

Option 2, in case of multiple lots:

(a) Total Bid price of each lot (Grand Total of (i) & (ii) above for the particular Lot) is (in Rupees)
[insert the total price of each lot in words and figures];
and

(b) Total Bid price of all lots (Sum of the Grand Total of (i) & (ii) above for all the lots) [insert the total price of all lots in words and figures];

5. The discounts offered and the methodology for their application are:

(i) The discounts offered are: [Specify in detail each discount offered.]

(ii) The exact method of calculations to determine the net price after application of discounts is shown below:
[Specify in detail the method that shall be used to apply the discounts/]; _____;

6. Bid Validity Period: Our Bid shall be valid for the period specified in the Bidding Document from the date fixed for the bid submission deadline as per Bidding Document (and as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

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7. If our bid is accepted, we commit to obtain a performance security in accordance with the Bidding Documents;
8. We give you the undertaking that information being submitted as our Bid is correct and true, and that any false information shall lead to disqualification at any stage and further actions as per Procurement Act and Rules and other applicable Laws;
9. We (the Bidder including all members of JV if applicable) hereby certify that we have no conflicts of interest.
10. We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not black-listed/debarred by any Procuring Entity of Government of Punjab/Semi Government Organization/ Corporation of the State of Punjab or Central Government/Other State Government Organization/Corporation or Public Undertaking, Autonomous body or Authority by whatever name it may be called under them or by Multilateral Development Banks (MDBs).
11. We hereby certify that we have fulfilled our obligations to pay all such taxes as payable to the Central Government or the State Government or any local authority.
12. We hereby authorize the Procuring Entity to seek references from our Bankers, Financial Institutions, Firms, Corporations or persons in regard to pertinent information deemed necessary and required by the Procuring Entity.
13. We are not participating, as a Bidder or as a Sub-contractor, in more than one Bid in this Bidding process,
14. We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any activities which is in contravention of the Code of Integrity or engage in any type of fraud and corruption and we will strictly observe the laws against fraud and corruption in force within the country.
15. We understand that this Bid, together with your written acceptance thereof included in your notification of award,

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shall constitute a binding contract between us, until a formal contract is prepared and signed;

16. We understand that you are not bound to accept the lowest evaluated Bid or most advantageous Bid or any other Bid that you may receive; and

17. We accept the provisions in the Contract in regard to amicable settlement of disputes through *[Insert here as applicable like administrative tribunals such as Adjudicator/Dispute Review Expert, Dispute avoidance and adjudication Boards, Arbitration as prescribed in the Arbitration Act 1996 and the Arbitration and Conciliation (Amendment) Act, 2015 with subsequent amendments if any]*

18. If awarded the contract, the person named below shall act as Contractor's Representative:

Name of the Bidder _____

Name of the person duly authorized to sign the Bid on behalf of the Bidder _____

Title of the person signing the

Bid _____

Signature of the person named above _____

Date signed _____

Schedule 1

Format 2

(Technical Bid)

(To be used only with Technical Bid in case of Two Envelope process and not to be used for Single Envelope process)

The Bidder must prepare the Letter of Bid on stationery with its letterhead clearly showing the Bidder's complete name and address.

Note: All italicized text is for use in preparing the form and shall be deleted.

Date of this Bid submission: *[insert date (as day, month and year) of Bid submission]*

Notice Inviting Bid No.: *[insert identification]*

To:
[insert complete name of Procuring Entity]

We, the undersigned, declare that:

1. We have examined and have no reservations to the Bidding Documents, including Addenda/Corrigenda issued in accordance with Instructions to Bidders;
2. We meet the eligibility requirements as per **Instructions to Bidders**;
3. We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedule specified in the Schedule of Requirements the following Goods/Works/Services:
..... *[insert a brief description of the Goods/Services/Works]*;
4. **Bid Validity Period:** Our Bid shall be valid for the period specified in the Bidding Document from the date fixed for the bid submission deadline as per Bidding document (and as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

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5. If our bid is accepted, we commit to obtain a performance security in accordance with the Bidding Documents;
6. We give you the undertaking that information being submitted as our Bid is correct and true, and that any false information shall lead to disqualification at any stage and further actions as per Transparency in Public Procurement Act, 2019 and Transparency in Public Procurement Rules, 2022 and other applicable Laws;
7. We (the Bidder including all members of JV if applicable) hereby certify that we have no conflicts of interest.
8. We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not black-listed/debarred by any Procuring Entity of Government of Punjab/Semi Government Organization/ Corporation of the State of Punjab or Central Government/Other State Government Organization/Corporation or Public Undertaking, Autonomous body, Authority by whatever name it may be called under them or by Multilateral Development Banks (MDBs).
9. We hereby certify that we have fulfilled our obligations to pay all such taxes as payable to the Central Government or the State Government or any local authority.
10. We hereby authorize the Procuring Entity to seek references from our Bankers, Financial Institutions, Firms, Corporations or persons in regard to pertinent information deemed necessary and required by the Procuring Entity.
11. We are not participating, as a Bidder, in more than one Bid in this Bidding process in accordance with Instruction To Bidders,
12. We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any activities which is in contravention of the Code of Integrity or engage in any type of fraud and corruption and we will strictly observe the laws against fraud and corruption in force within the country.
13. We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed;

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14. We understand that you are not bound to accept the lowest evaluated Bid or most advantageous Bid or any other Bid that you may receive; and

15. We accept the provisions in the Contract in regard to amicable settlement of disputes through *[Insert here as applicable like administrative tribunals such as Adjudicator/Dispute Review Expert, Dispute avoidance and adjudication Boards, Arbitration as prescribed in the Arbitration Act 1996 and the Arbitration and Conciliation (Amendment) Act, 2015 with subsequent amendments if any]*

16. If awarded the contract, the person named below shall act as Contractor's Representative:

Name of the Bidder _____

Name of the person duly authorized to sign the Bid on behalf of the Bidder _____

Title of the person signing the

Bid _____

Signature of the person named above _____

Date signed _____

Schedule 1

Format 3

Letter of Bid (Financial Bid)

(To be used for submission with Financial Bid and not to be submitted with the Technical Bid in case of Two Envelope process, and not to be used for Single Envelope process)

The Bidder must prepare the Letter of Bid on stationery with its letterhead clearly showing the Bidder's complete name and address.

Note: All italicized text is for use in preparing the form and shall be deleted.

Date of this Bid submission: *[insert date (as day, month and year) of Bid submission]*

Notice Inviting Bid No.: *[insert identification]*

To:

[insert complete name of Procuring Entity]

We, the undersigned, declare that:

1. We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedule specified in the Schedule of Requirements the following Goods/Services/Works:
..... *[insert a brief description of the Goods/Services/Works]*;
2. The total price of our Bid, excluding any discounts offered in Para (3) below is:
 - (i) Total Price of each Lot of goods as per technical specifications given in 'Schedule of Requirements' is (in Rupees) *[insert the total price of the Bid in words and figures]*
 - (ii) Total price of related services applicable for the same Lot as in (i) above and specified in 'Schedule of Requirements' is (in Rupees) *[insert the total price of the Bid in words and figures]*
 - (iii) Bid Price for each Lot of Goods (Grand Total of (i) & (ii) above) is (in Rupees) *[insert the total price of the Bid in words and figures]*;

[Insert one of the options below as appropriate]

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Option 1, in case of one lot:

Bid Price for the Lot (Grand Total of (i) & (ii) above) is
..... (in Rupees) *[insert the total price of the Bid in words and figures]*;

Or

Option 2, in case of multiple lots:

- (a) **Total Bid price of each lot** (Grand Total of (i) & (ii) above for the particular Lot) is (in Rupees) *[insert the total price of each lot in words and figures]*; and
 - (b) **Total Bid price of all lots** (Sum of the Grand Total of (i) & (ii) above for all the lots) *[insert the total price of all lots in words and figures]*;
3. The discounts offered and the methodology for their application are:
- (i) The discounts offered are: *[Specify in detail each discount offered.]*
 - (ii) The exact method of calculations to determine the net price after application of discounts is shown below: *[Specify in detail the method that shall be used to apply the discounts]*;
_____;
4. We hereby confirm all the contents of the **Letter of Bid (Technical Bid)** submitted by us with our Technical Bid.

Name of the Bidder _____

Name of the person duly authorized to sign the Bid on behalf of the Bidder _____

Title of the person signing the

Bid _____

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<Contract Forms>

Schedule 1

**Letter of Acceptance/Letter (Notification) of Award (LoA) of
Contract**

Name of the Procuring Entity.....

Letter of Award of Contract

Confidential

Contract No: [Insert date]

Contract Title:

To,

M/s. [Insert name & address]

Sub: Award of contract for contract no: [insert contract number] and
contract title: [insert contract title]

REF. Your offer no. [insert offer number] against our tender no.
[insert tender no] opened on [insert date of opening of tender]

Dear Sir/Madam

I am directed to inform you that after evaluating the bid documents submitted by you on ---[enter date] -----[Enter Name of Procuring Entity] is pleased to inform you that you have been selected as the successful bidder for the supply of [enter description]. The total purchase price shall be [enter amount] as indicated in your financial bid submitted on [enter date], in accordance with the procedures intimated in the relevant bid documents.

You/your authorized representative(s) are requested to be personally present at [insert address] for the signing of the contract by [enter date].

In this respect, we also request you to submit the Performance Security of [insert amount of Rupees in words] by [insert date]. Performance Security being <percentage > of the total cost = Rs.

.....

Please apply for refund of Bid Security deposited over and above the Performance Security, if any.

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You are requested to execute necessary agreement within 15 days from the date of issue of this letter in the enclosed agreement form. Special adhesive stamp of Rs.10 (Rupees Ten) and revenue stamp of Rupee one shall be affixed on the enclosed agreement form. Treasury receipts of Bid Security and Performance Security shall be deposited in office within the stipulated time limit as above.

This notification concludes the legally binding contract between you and the Government of Punjab, till issue of a formal contract.

Yours truly,

[Authorized Officer]

Enclosure: Agreement Form along with the schedule of delivery

Schedule 1

Contract Agreement

THIS AGREEMENT made

the [insert: **number**] day of [insert: **month**], [insert: **year**].

BETWEEN

1. [insert complete name of Procuring Entity], a [insert description of type of legal entity, for example, an agency of the Ministry of of the Government of Punjab, or corporation incorporated under the laws of State of Punjab] and having its principal place of business at [insert address of Procuring Entity] (hereinafter called “the Procuring Entity”), of the one part,

and

2. [insert name of Supplier] having its principal place of business at [insert: address of Supplier] (hereinafter called “the Supplier”), of the other part:

WHEREAS the Procuring Entity invited bids for certain Goods and Related services, viz., [insert brief description of Good/Services/Works] and has accepted a Bid submitted by the Supplier for the supply of these Goods/Services/Works,

The Procuring Entity and the Supplier agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other contract documents.
 - (a) the Letter of Acceptance
 - (b) the Letter of Bid
 - (c) the Addenda Nos. _____ (if any)
 - (d) Special Conditions of Contract
 - (e) General Conditions of Contract

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- (f) the Specification (including Schedule of Requirements and Technical Specifications)
 - (g) the completed Schedules (including Price Schedule)
 - (h) Joint Venture Agreement [for JVs only]
 - (i) any other document listed in General Conditions of Contract and Special Conditions of Contract
3. In consideration of the payments to be made by the Procuring Entity to the Supplier as specified in this Agreement, the Supplier hereby covenants with the Procuring Entity to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Procuring Entity hereby covenants to pay the Supplier in consideration of the provision of the Goods/Services/Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of Union of India on the day, month and year indicated above.

For and on behalf of the Procuring Entity

Signed: *[insert signature]*

in the capacity of *[insert title or other appropriate designation]*

in the presence of *[insert identification of official witness]*

For and on behalf of the Supplier

Signed: *[insert signature of authorized representative(s) of the Supplier]*

in the capacity of *[insert title or other appropriate designation]*

in the presence of *[insert identification of official witness]*

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Schedule 1

Performance Security (Bank Guarantee)

[Guarantor letterhead]

Beneficiary: *[insert name and Address of Procuring Entity]*

Date: *[Insert date of issue]*

Performance Guarantee No.: *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that *[insert name of Supplier, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Applicant") has entered into Contract No. *[insert reference number of the contract]* dated *[insert date]* with the Beneficiary, for supply of *[insert name of contract and brief description of Goods/Services/Works]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of Rupees *[insert amount in figures]* *[insert amount in words]*, such sum being payable upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for the demand or the sum specified therein.

This guarantee shall expire, no later than the, and any demand for payment under it must be received by us at this office indicated above on or before that date.

[signature(s)]

Schedule 1

Part B

Preparing Expression of Interest (EOI)

The Expression of Interest document shall contain following sections:

- (1) Letter of Invitation; It shall include a copy of the advertisement whereby consultants are invited to submit their Expression of Interest.
- (2) Instructions to the consultants; It may include instructions regarding nature of job; submission requirement; requirement of bid processing fees; if any; last date of submission; place of submission; and any related instruction;
- (3) Description of Services - Brief Purpose and Scope of Work; This may include brief purpose/objective statement; Service outcomes statement; broad scope of work including time-frames; inputs to be provided by the Procuring Entity; and expected deliverables of the assignment. This may also include the place of execution of the assignment. The request for Expression of Interest shall not include the assignment Terms of Reference. The consultants may also be asked to send their comments on the objectives and scope of the work or service projected in the enquiry.
- (4) Qualification Criteria; This may clearly lay down the qualification criteria which shall be applied by the Procuring Entity for short listing the consultants. The Request for Expression of Interest shall ask for sufficient information so that the Procuring Entity may evaluate the consultant's capabilities and eligibility to undertake the assignment. Information shall include: (a) core business and years in business; (b) qualifications in the field of the assignment; (c) technical and managerial organization of the firm; and (d) general qualifications and number of key staff. In addition, the consultants shall indicate information relating to their eligibility and any conflict of interest that they know may impact objective performance and impartial advice for their services. Consultants shall not be asked about their approach to the services or to submit any curricula vitae of key personnel because these documents will be dealt with in the Request for Proposal. No legal documents such as certificates of incorporation of the firm, powers of attorney, financial statements or translations of standard brochures shall be requested. Given the often-large number of submissions, the advertisement shall stress the importance of brevity of the information to be sent

Preparing Request for Proposal (RFP)

The Request for Proposals (RFP) is the bidding document in which the technical and financial proposals from the consultants are obtained. For procurement of Consultancy Services, the RFP is sent only to the short listed consultants. It contains the following sections:

(1) The Letter of Invitation (LoI) shall state the intention of the Procuring Entity to enter into a contract for the provision of consultancy services, details of the Procuring Entity and date, time and address for submission of proposals.

(2) The Instructions to consultants (ITC) shall consist of two parts i.e. standard information; and assignment specific information. The assignment specific information is added through the data sheet. The Instructions to Consultants contains all necessary information that would help the consultants prepare responsive proposals and shall bring in as much transparency as possible to the selection procedure by providing information on the evaluation process and by indicating the evaluation criteria and factors and their respective weights and minimum passing quality score. Standard information includes clauses relating to the procedure of bid submission, pre-bid meeting for seeking clarifications and so on. The assignment/job specific information will be prepared separately and include the date and time of bid submission, contact address, qualification criteria, method of selection, evaluation process, factors of evaluation and their respective weights and so on.

(3) Standard Formats for Technical and Financial Proposals

(a) The standard formats for technical proposals shall include the following:

- (i) Technical proposal submission form (including declaration on conflict of interest, eligibility, following Code of Integrity in the Act.
- (ii) For a Joint Venture, a Letter of Invitation or copy of existing agreement, as applicable;
- (iii) Power of attorney (in case of a Joint Venture, lead member to be authorized);
- (iv) consultant's organization and experience (if required)

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(PAUSA 17, 1943 SAKA)

- (v) Comments and suggestions on Terms of Reference, counterpart staff and facilities to be provided by the client (if required);
 - (vi) Description of approach and methodology and work plan for performing the assignment;
 - (vii) Work schedule and planning for deliverables;
 - (viii) Team composition, key expert's inputs, attached CVs.
 - (ix) Format for Comments/modifications suggested on proposed form of contract.
- (b) The standard formats for a financial proposal include:
- (i) Financial proposal form;
 - (ii) A summary sheet of the cost to be quoted by the Bidder;
 - (iii) Remuneration payable;
 - (iv) Reimbursable expenses

K. A. P. SINHA, IAS
Additional Chief Secretary
to Government of Punjab
Department of Finance

Punjab Public Procurement Act 2019- Transparency

6 messages

Superintending WSS Circle, Sri Muktsar Sahib <sewss.srimuktsarsahib.pb@gmail.com>

10 December 2019 at 06:03

To: eeprocurementdwss@gmail.com

Cc: goelsemkt@gmail.com, "Superintending WSS Circle, Sri Muktsar Sahib" <sewss.srimuktsarsahib.pb@gmail.com>

Print out to be taken.



EE Proc <eeprocurementdwss@gmail.com>

10 December 2019 at 10:20

To: JE Procurement <procurementdwss@gmail.com>, Lakshman Madan <madan.lakshman@gmail.com>, SDE - P <procurement.sde@gmail.com>

Thanks & Regards

EE (Procurement)
O/o Head DWSS
Mohali

----- Forwarded message -----

From: **Superintending WSS Circle, Sri Muktsar Sahib** <sewss.srimuktsarsahib.pb@gmail.com>

Date: Tue, 10 Dec 2019 at 06:03

Subject: Punjab Public Procurement Act 2019- Transparency

To: <eeprocurementdwss@gmail.com>

Cc: <goelsemkt@gmail.com>, Superintending WSS Circle, Sri Muktsar Sahib <sewss.srimuktsarsahib.pb@gmail.com>

Print out to be taken.



EE Proc <eeprocurementdwss@gmail.com>

10 December 2019 at 10:52

To: EE Desgin <eed.dwsspb@gmail.com>

[Quoted text hidden]



EE Proc <eeprocurementdwss@gmail.com>

10 December 2019 at 10:55

To: "Director Sanitation, Punjab" <dspunjab@yahoo.com>

[Quoted text hidden]



EE Proc <eeprocurementdwss@gmail.com>

24 December 2019 at 09:46

To: CE-North <cedwss.north@gmail.com>

[Quoted text hidden]



EE Proc <eeprocurementdwss@gmail.com>

15 May 2020 at 13:48

To: SDE - P <procurement.sde@gmail.com>

[Quoted text hidden]

Regd. No. NW/CH-22

Regd. No. CHD/0092/2018-2020



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EXTRAORDINARY

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(BHADRA 19, 1941 SAKA)

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| | <i>Nil</i> | |

PART I

GOVERNMENT OF PUNJAB

DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB

NOTIFICATION

The 10th September, 2019

No. 15-Leg./2019.- The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 24th day of August, 2019, is hereby published for general information:-

**THE PUNJAB TRANSPARENCY IN PUBLIC PROCUREMENT
ACT, 2019**

(Punjab Act No. 12 of 2019)

AN

ACT

to establish legal foundations for procedures for procurement by public entities so as to ensure timely delivery of intended outcomes with efficiency, economy, integrity and accountability, transparency, fair and equitable treatment of bidders, public confidence regarding good governance in the process and for the matters connected therewith or incidental thereto.

BE it enacted by the Legislature of the State of Punjab in the Seventieth Year of the Republic of India as follows: -

Chapter I

Preliminary

1. (1) This Act may be called the Punjab Transparency in Public Procurement Act, 2019. Short title, extent and commencement.
- (2) It shall extend to the whole of the State of Punjab.
- (3) It shall come into force on and with effect from the date of its publication in the Official Gazette.
2. In this Act, unless the context otherwise requires,- Definitions.
 - (a) “bid” means a formal offer made in pursuance of an invitation by a procuring entity and includes any tender, proposal or quotation;
 - (b) “bidder” means any person, company, firm, agency, institution, etc. participating in a procurement process of a procuring entity for procurement of goods, works or services;

- (c) “bidder registration documents” means the documents issued by a procuring entity, including any amendments thereto, that set out the terms and conditions of registration proceedings and includes the invitation to register;
- (d) “bidding documents” means documents issued by the procuring entity, including any amendments thereto, that set out the terms and conditions of the given procurement and includes the invitation to bid;
- (e) “bid security” means a security provided to the procuring entity by a bidder for securing the fulfillment of any obligation in terms of the provisions of the bidding documents;
- (f) “e-procurement” means the electronic process wherein the physical tendering activity is carried out online using the internet and associated technologies;
- (g) “goods” includes all articles, material, commodities, electricity, livestock, furniture, fixtures, raw material, spares, instruments, software, machinery, equipment, industrial plant, vehicles, aircraft, ships, railway rolling stock and any other category of goods, whether in solid, liquid, gaseous or intangible form, purchased or otherwise acquired by the procuring entity as well as services or works incidental to the supply of the goods if the value of services or works or both does not exceed that of the goods themselves;
- (h) “invitation to bid” means a document published by the procuring entity inviting bids relating to the subject matter of procurement and any amendment thereto and includes notice inviting tender and request for proposal;
- (i) “pre-qualification” means the procedure set out to identify, prior to inviting bids, the bidders that are qualified;
- (j) “pre-qualification documents” means the documents issued by a procuring entity, including any amendments thereto, that set out the terms and conditions of the pre-qualification proceedings and includes the invitation to pre-qualify;
- (k) “prescribed” means prescribed by rules made under this Act;
- (l) “procurement” or “public procurement” means the acquisition by purchase, lease, licence or otherwise of goods, services or works

including award of Public Private Partnership projects, by a procuring entity whether directly or through an agency with which a contract for procurement services is entered into, but does not include any acquisition without consideration, and “procure” or “procured” shall be construed accordingly;

- (m) “procurement contract” means a contract entered into between the procuring entity and a successful bidder concerning the subject matter of procurement;
- (n) “procurement process” means the process of procurement extending from the issue of invitation to pre-qualify or to register or to bid till the award of the procurement contract or cancellation of the procurement process, as the case may be;
- (o) “procuring entity” means an entity referred to in sub-section (2) of section 3;
- (p) “Public Private Partnership” means an arrangement between the procuring entity on one side and the private sector entity on the other, for the provision of public assets or public services or both, through investments being made or management being undertaken, or both investments being made and management being undertaken, by the private sector entity, for a specified period of time, where there is well defined allocation of risk between the private sector and the procuring entity and the private entity receives performance linked payments that conform (or are benchmarked) to specified and pre-determined performance standards, measurable by the procuring entity or its representative;
- (q) “rate contract” means an agreement between a procuring entity and one or more bidders which specifies the terms and conditions, including the price, for the supply of a subject matter of procurement required on a recurring basis;
- (r) “registered bidder” means any bidder who is on a list of registered bidders of the procuring entity maintained under section 18;
- (s) “services” means any subject matter of procurement other than goods or works and includes physical, maintenance, professional, intellectual, consultancy and advisory services or any service classified or declared as such by a procuring entity and does not include appointment of any person made by any procuring entity;

- (t) “State Government” means the Government of State of Punjab in the Department of Finance;
- (u) “subject matter of procurement” means any item of procurement whether in the form of goods, services or works; and
- (v) “swiss challenge” means a method of procurement in which an unsolicited proposal is received for a project that predominantly involves uniqueness and specificity of design/ technology/ intellectual property for that project and third parties are allowed to challenge the original proposal through open bidding, and then the original proponent is given a chance to counter-match the most advantageous/most competitive offer; and
- (w) “works” mean all works associated with the construction, reconstruction, site preparation, demolition, repair, maintenance, or renovation of railways, roads, highways or a building, an infrastructure, or structure or an installation or any construction work relating to excavation, drilling, installation of equipment and materials, as well as services incidental to the works if the value of those services does not exceed that of the works themselves.

Application.

3. (1) This Act shall apply to all procurements which are met from the Government Accounts, including the Consolidated Fund of the State, Public Accounts and Contingent Fund of the State.

- (2) For the purposes of this Act, “procuring entity” means,-
 - (a) any department of the Government of Punjab or its attached or subordinate office;
 - (b) any Public Sector Enterprise owned or controlled by the Government of Punjab;
 - (c) any entity established or constituted by the Constitution of India or an Act of Parliament, whose expenditure is met from the Consolidated Fund of the State;
 - (d) any entity or Board or Corporation or authority or Society or Trust or Commission or autonomous body (by whatever name called) established or constituted by an Act of the State Legislature;
 - (e) any entity that receives grant or financial aid out of the Consolidated Fund of the State or retains any levy/user

charges/fees etc. collected from the public after being authorized to do so by the State Government and is owned or controlled or managed by the Government of Punjab;

- (f) any other entity which the State Government may, by notification, specify to be a procuring entity for the purpose of this Act, being an entity that receives substantial financial assistance from the State Government in so far as the utilization of such assistance towards procurement is concerned; and
- (g) any procurement support agency or procurement agent or procurement consultant involved in procurement on behalf of the procuring entities specified in clauses (a) to (f) above.

(3) Notwithstanding anything contained in sub-section (1), provisions of this Act shall not apply to a procuring entity subject to any obligation of the Government of Punjab under or arising out of any agreement,-

- (a) entered into by the Central Government with any other country or with an intergovernmental international financing institution; or
- (b) to which the Government of Punjab is party with one or more State Governments or with the Central Government, and the requirements of such agreement shall prevail over the provisions of this Act.

4. Subject to such rules as may be made in this behalf consistent with the provisions of sections 5 and 7 the provisions of Chapter II and III shall not apply to,- Exemptions.

- (a) any procurement, the estimated cost or value of which is less than the threshold value as the State Government may, by notification, specify for different classes or categories of procurements or procuring entities;
- (b) emergency procurement necessary for the management of any disaster, as defined in clause (d) of section 2 of the Disaster Management Act, 2005 (Central Act No. 53 of 2005);
- (c) the procurement under Assembly and Parliamentary election urgency;
- (d) procurement for the purposes of security or on strategic considerations that the State Government may, by general or special order, specify;

- (e) procurement by a procuring entity under clause (b) to clause (f) of sub-section (2) of section 3 from its subsidiary company or joint venture company in which such procuring entity has more than fifty percent share; and
- (f) any other procurement, as may be notified by the State Government.

Chapter II

General principles of public procurement

Fundamental principles.

5. (1) In relation to a public procurement, the procuring entity shall have the responsibility and accountability to,-

- (a) ensure efficiency, economy and transparency;
- (b) provide fair and equitable treatment to bidders;
- (c) promote competition; and
- (d) put in place mechanisms to prevent corrupt practices.

(2) Subject to the provision of sub-section (3) of section 3, every procuring entity shall carry out its procurement in accordance with the provisions of this Act and the rules and guidelines made thereunder.

Documentary record of procurement proceedings and of communications.

6. (1) The procuring entity shall maintain a record of its procurement proceedings, which shall include the following, namely:-

- (a) documents pertaining to determination of need for procurement under section 8;
- (b) description of the subject matter of the procurement under section 12;
- (c) statement of the reason for choice of a procurement method other than open competitive bidding;
- (d) particulars of the participating bidders;
- (e) requests for clarifications and any responses thereto including during pre-bid conferences;
- (f) bid prices and other financial terms;
- (g) summary of the evaluation of bids;
- (h) details of any appeal under section 49, and the related decisions; and
- (i) any other information or record, as may be prescribed .

(2) Any document, notification, decision or other information generated

in the course of a procurement, including in connection with appeals under section 49 or in the course of a meeting or forming part of the record of the procurement process, shall be in a form that provides a record of the content of the information and is accessible so as to be usable for subsequent reference.

(3) Subject to the provisions of the Right to Information Act, 2005 (Central Act No. 22 of 2005) or of any other law for the time being in force relating to retention of records, the procuring entity shall retain the documentary record indicated in sub-sections (1) and (2), for such period, as may be prescribed after the expiry of the procurement process or procurement contract, as the case may be, so as to enable audit or such other review.

7. (1) No officer or employee of a procuring entity or a person participating in a procurement process shall act in contravention of the code of integrity as specified hitherto.

Code of integrity
for procuring
entity and
bidders.

(2) The code of integrity referred to in sub-section (1) shall include the following, namely:-

(a) prohibiting,-

- (i) any offer, solicitation or acceptance of any favour, bribe, reward or gift or any material benefit, either directly or indirectly, in exchange for an unfair advantage in the procurement process or to otherwise influence the procurement process or the action of other party;
- (ii) any omission, including a misrepresentation that misleads or attempts to mislead so as to obtain a financial or other benefit or avoid an obligation;
- (iii) any collusion, bid rigging or anti-competitive behaviour to impair the transparency, fairness and progress of the procurement process;
- (iv) improper use of information shared between the procuring entity and the bidders with an intent to gain unfair advantage in the procurement process or for personal gain;
- (v) any financial or business transactions between the bidder and any officer or employee of the procuring entity;
- (vi) any coercion including impairing or harming or threatening to do the same, directly or indirectly, to any

party or to its property to influence the procurement process; and

(vii) any obstruction of any investigation or audit of a procurement process;

(b) timely disclosure of conflict of interest; and

(c) timely disclosure by the bidder of any previous transgressions with any entity in India or any other country during the last three years or of any debarment by any other procuring entity.

(3) Without prejudice to the provisions of Chapter XII, in case of any breach of the code of integrity by a bidder or prospective bidder, as the case may be, the procuring entity may take appropriate measures including,-

(a) exclusion of the bidder from the procurement process;

(b) calling off of pre-contract negotiations and forfeiture or encashment of bid security;

(c) forfeiture or encashment of any other security or bond relating to the procurement;

(d) recovery of payments made by the procuring entity along with such interest, as may be prescribed;

(e) cancellation of the relevant contract and recovery of compensation for loss incurred by the procuring entity; and

(f) debarment of the bidder from participation in future procurements of the procuring entity for a period not exceeding three years under section 56.

Chapter III

Procurement planning

Determination of need for procurement.

8. (1) The procuring entity shall to begin with determine the need for the subject matter of procurement.

(2) The procuring entity shall while assessing the need under sub-section (1) take into consideration the following matters, namely:-

(a) the scope or quantity of procurement;

(b) the method of procurement to be followed with justification thereof;

(c) need for pre-qualification, if any;

- (d) limitation on participation of bidders in terms of section 13, if any applicable, and justification thereof;
- (e) estimated cost of procurement;
- (f) timeline for procurement; and
- (g) any other matter as may be prescribed.

9. (1) The procuring entity shall prepare an annual procurement plan before/at the beginning of every financial year. Annual procurement plan.

(2) A procuring entity shall take into consideration the matter specified in sub-section (2) of section 8 while preparing its annual procurement plan in a rational manner and in particular shall,-

- (a) avoid emergency procurement, wherever possible;
- (b) aggregate its requirements, wherever possible, both within the procuring entity and between procuring entities, to obtain value for money and reduce procurement costs;
- (c) avoid splitting of procurement; and
- (d) integrate its procurement budget with its expenditure programme.

(3) The annual procurement plan, including its updates, shall atleast contain the following, namely:-

- (a) a brief description of goods, works or services for which procurement is to take place during the respective financial year;
- (b) the proposed methods of procurement pursuant to the provisions in this Act and the rules made there under;
- (c) any provision of preference in accordance with section 13 of this Act;
- (d) the time schedule for key procurement activities; and
- (e) such other matter, as may be prescribed.

(4) The annual procurement plan prepared pursuant to sub-section (3) may be further updated by the procurement entity with the approval of the concerned Administrative Department, provided that the updated plan shall remain within the approved Annual Budgetary Allocation for the procurement entity.

(5) The procuring entity shall publish the annual procurement plan prepared pursuant to sub-section (3) of this section on the State Public Procurement Portal and on the website of the concerned procuring entity:

Provided that the publication of information under this sub-section shall not be construed as initiation of procurement process and cast any obligation on the procuring entity to issue bidding document or confer any right on prospective bidders.

Chapter IV **Pre-tendering**

Obligations
related to value of
procurement.

10. (1) A procuring entity shall obtain the approval of the authority having the necessary financial powers before initiating a procurement process.

(2) A procuring entity shall neither split its procurement nor use a particular valuation method for estimating the value of procurement so as to avoid its obligation under sub-section (1) or to limit competition among bidders or otherwise avoid its obligations under this Act:

Provided that in the interest of efficiency, economy and timely completion or supply, a procuring entity may, for reasons to be recorded in writing, and with prior approval of the Administrative Department split its procurement into appropriate packages.

Time frame for
processing.

11. (1) Subject to the rules as may be made by the State Government in this behalf, every procuring entity shall pre-determine a reasonable time frame for completion of various stages of the process of procurement and indicate the same in the pre-qualification documents, bidder registration documents or bidding documents, as the case may be.

(2) The procuring entity shall endeavour to adhere to the time frame indicated under sub-section (1) and in case of failure to do so extend such time frame for reasons to be recorded in writing.

Chapter V **Tendering**

Description of
the subject matter
of procurement.

12. (1) The description of the subject matter of procurement shall be set out in the pre-qualification documents, bidder registration documents and the bidding documents and shall, –

- (a) be such as to meet the essential needs of the procuring entity;
- (b) to the extent practicable-
 - (i) be objective, functional, generic and measurable;

- (ii) set out the relevant technical, quality and performance characteristics; and
- (iii) not indicate a requirement for a particular trade mark, trade name or brand.

(2) Where applicable, the technical specifications shall, to the extent practicable, be based on national technical regulations or recognised national standards or building codes, wherever such standards exist and in their absence, relevant International Standards may be used.

13. (1) The procuring entity shall not establish any requirement aimed at limiting participation of bidders in the procurement process that discriminates against or among bidders or against any category thereof, except when authorised or required to do so by this Act or the rules or guidelines made thereunder or by the provisions of any other law for the time being in force. Participation of bidders.

(2) The State Government may, by notification in this behalf, provide for mandatory procurement of any subject matter of procurement from any category of bidders, and purchase or price preference in procurement from any category of bidders, on the following grounds, namely:-

- (a) the promotion of domestic industry;
- (b) socio-economic policy of the Central Government or the State Government;
- (c) any other consideration in public interest in furtherance of a duly notified policy of the Central Government or the State Government:

Provided that any such notification shall contain a reasoned justification for such mandatory or preferential procurement, the category of suppliers chosen and the nature of preference provided.

(3) The procuring entity, when inviting the participation of bidders in the procurement process, shall declare whether participation of bidders is limited pursuant to this section and on what ground and any such declaration may not ordinarily be later altered.

(4) Nothing in this section shall be construed as preventing the State Government or any procuring entity from imposing or enforcing measures limiting participation on account of the need,-

- (a) to protect public order, morality or safety; or

Qualifications of
bidders.

-
- (b) to protect human, animal or plant life or their health; or
 - (c) to protect intellectual property; or
 - (d) to protect the essential security and strategic interest of India.
14. (1) A procuring entity may determine and apply one or more of the requirements specified in sub-section (2) for a bidder to be qualified for participating in a procurement process.
- (2) Any bidder participating in the procurement process shall,-
- (a) possess the necessary professional, technical, financial and managerial resources and competence required by the bidding documents, pre-qualification documents or bidder registration documents, as the case may be, issued by the procuring entity;
 - (b) have fulfilled his obligation to pay taxes payable to the Central Government or the State Government or any local authority as may be specified in the bidding documents, pre-qualification documents or bidder registration documents;
 - (c) not be insolvent, in receivership, bankrupt or being wound up, not have its affairs administered by a court or a judicial officer, not have its business activities suspended and must not be the subject of legal proceedings for any of the foregoing reasons;
 - (d) not have their Directors and officers convicted of any criminal offence related to their professional conduct or the making of false statements or misrepresentations as to their qualifications to enter into a procurement contract within a period of three years preceding the commencement of the procurement process, or not have been otherwise disqualified pursuant to debarment proceedings;
 - (e) not have a conflict of interest as may be prescribed and specified in the pre-qualification documents, bidder registration documents or bidding documents, which materially affects fair competition; and
 - (f) fulfil any other qualifications as may be prescribed.
- (3) Subject to the right of bidders to protect their intellectual property or trade secrets, the procuring entity may require a bidder to provide any such information or declaration as it considers necessary to make an evaluation in accordance with sub-section, (1).

(4) Any requirement established pursuant to this section shall be set out in the pre-qualification documents or bidder registration documents, if any, and in the bidding documents and shall apply equally to all bidders.

(5) The procuring entity shall evaluate the qualifications of bidders only in accordance with the requirement specified in this section.

15. (1) Subject to the provisions of this Act and the rules and guidelines made thereunder, a procuring entity may choose to,- Single envelope and two envelope bids.

- (a) call for bids in which the technical, quality and performance aspects, commercial terms and conditions and the financial aspects including the price are contained in a single envelope; or
- (b) if it is of the opinion that it is essential to evaluate the technical aspects of a bid before considering its financial aspect, call for bids in two envelopes, namely:-
 - (i) the techno-commercial bid containing the technical, quality and performance aspects, commercial terms and conditions; and
 - (ii) the financial bid containing financial aspects, including the price.

(2) In case the procuring entity calls for bids in terms of clause (b) of sub-section (1), the techno-commercial bid shall be opened and evaluated first and the financial bid of only those bidders that have been found technically acceptable shall be opened and evaluated.

16. (1) A procuring entity may engage in a pre-qualification process, with a view to identifying, prior to inviting bids, the bidders that are qualified for any specified period of time. Pre-qualification of bidders.

(2) For the purpose of sub-section (1), a procuring entity may invite offers from prospective bidders by giving wide publicity to the invitation to pre-qualify and shall publish the particulars of the bidders that are qualified on the State Public Procurement Portal.

(3) Where a procuring entity has undertaken a pre-qualification process in respect of any procurement, only such pre-qualified bidders shall be entitled to continue in the procurement proceedings.

(4) The procuring entity shall decide who is pre-qualified in accordance with section 14 and the criteria set out in the pre-qualification documents.

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(BHDR 19, 1941 SAKA)

Post qualification
of bidders.

(5) Every pre-qualification process shall be carried out in such manner and in accordance with such procedure, as may be prescribed.

17. (1) The procuring entity may, where bidders have not been pre-qualified, determine whether the bidder whose bid or proposal has been determined to offer lowest evaluated bid in the case of procurement or the highest evaluated bid in the case of disposal of public assets by bid, has the capacity, capability and resources to carry out effectively the contract as offered in the bid before communicating the award decision.

(2) The post qualification criteria shall itself be laid out in the bidding documents and if the bidder fails to meet any of these criteria, the bid shall be rejected and the procuring entity shall make a similar determination for the next lowest evaluated bid in the case of procurement and next highest bid in the case of disposal of public asset by bidder.

(3) A procuring entity may require a bidder who has submitted a lowest evaluated bid in the case of procurement or highest evaluated bid in the case of disposal of public asset by bid to demonstrate again its qualifications before the award of contract is confirmed.

(4) The criteria and procedures to be used in sub-section (3) shall be the same as those used in the pre-qualification proceedings set out in section 16 of this Act and shall be specified in the bidding documents prepared by the procuring entity.

(5) The procuring entity shall, where bidder with the lowest or highest evaluated bid fails to post-qualify, reject its bid and select the next lowest or highest evaluated bid from the remaining bids, provided the procuring entity has a right to reject all remaining bids in accordance with section 24.

Registration of
bidders.

18. (1) With a view to establishing reliable sources for a subject matter of procurement or a class of procurement, which may be commonly required across procuring entities or repeatedly required by a procuring entity, a procuring entity may maintain a panel of registered bidders.

(2) For the purpose of sub-section (1), a procuring entity may invite offers from prospective bidders by giving wide publicity to the invitation to register and such registration shall be done in accordance with section 14, this section and the criteria set out in the bidder registration documents.

(3) The procuring entities shall update the list of registered bidders by allowing potential bidders to apply for registration on a continuous basis or by inviting offers for registration at least once in a year.

(4) The State Government may prescribe the procedure and conditions for registration of bidders and the period for which such registration shall be valid.

(5) Where a procuring entity does not register bidders in respect of a subject matter of procurement, it may use the list of registered bidders of other procuring entity, if any.

(6) The results of the registration process shall be intimated to the bidders and the list of registered bidders for the subject matter of procurement shall be published on the State Public Procurement Portal.

19. (1) A procuring entity shall use such standard bidding documents, as may be prescribed, for the purpose of procurement. Standard bidding documents.

(2) Any deviation from the use of standard bidding document by a procuring entity shall only be with reasons to be recorded in writing and with due approval of the appropriate authority of the procuring entity.

20. (1) A procuring entity, while fixing the last date by which bids are to be submitted by the bidders, shall take into account,- Time frame for submission of bids.

(a) the need of the bidders for having a reasonable time to prepare and submit their bids; and

(b) the period for effecting procurement as envisaged in annual procurement plan and bidding document.

(2) Subject to the provisions of section 22, the maximum time as may be allowed for submission of bids shall be the same for all bidders.

21. (1) Any bidder may, in writing, seek clarifications from the procuring entity in respect of the bidding documents. Pre-bid clarifications.

(2) The period within which the bidders may seek clarifications under sub-section (1) and the period within which the procuring entity shall respond to such requests for clarifications shall be specified in the bidding documents.

(3) All requests for clarifications and responses thereto shall be intimated to all bidders and where applicable, shall be published on the State Public Procurement Portal.

(4) A procuring entity may hold a pre-bid conference to clarify doubts of potential bidders in respect of a particular procurement and the records of such conference shall be intimated to all bidders and where applicable, shall be published on the State Public Procurement Portal.

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Changes to
bidding
documents.

22. (1) In case any modification is made to the bidding documents or any clarification is issued which materially affects the terms contained in the bidding documents, the procuring entity shall publish such modification or clarification in the same manner as the publication of the initial bidding documents.

(2) In case a clarification or modification is issued to the bidding documents, the procuring entity may, prior to the last date for submission of bids, extend such time limit in order to allow the bidders sufficient time to take into account the clarification or modification, as the case may be, while submitting their bids.

(3) Any bidder who has submitted his bid in response to the original invitation shall have the opportunity to modify or re-submit it, as the case may be, within the period of time originally allotted or such extended time as may be allowed for submission of bids, when changes are made to the bidding documents by the procuring entity:

Provided that in such cases, the bid last submitted or the bid as modified by the bidder, shall be considered for evaluation.

Procedure relating
to submission,
opening and
evaluation of
bids.

23. Subject to the terms and conditions as may be laid down in the bidding documents, submission of bids, opening and evaluation of bids, including constitution of committees for these purposes shall be in accordance with the rules as may be made.

Exclusion of bids.

24. (1) A procuring entity shall exclude a bid if,-
- (a) the bidder is not qualified in terms of section 14; or
 - (b) the bid materially departs from the requirements specified in the bidding documents or it contains false information; or
 - (c) the bidder submitting the bid, his agent or any one acting on his behalf, gave or agreed to give, to any officer or employee of the procuring entity or other governmental authority a gratification in any form, or any other thing of value, so as to unduly influence the procurement process; or
 - (d) a bidder, in the opinion of the procuring entity, has a conflict of interest materially affecting fair competition.
- (2) A bid shall be excluded as soon as the cause for its exclusion is discovered.
- (3) Every decision of a procuring entity to exclude a bid shall be for reasons to be recorded in writing.

(4) Every decision of the procuring entity under sub-section (3) shall be, -

- (a) communicated to the concerned bidder in writing; and
- (b) published on the State Public Procurement Portal.

25. (1) A procuring entity may, for reasons to be recorded in writing, cancel the process of procurement initiated by it,- Cancellation of the procurement process.

- (a) at any time prior to the acceptance of the successful bid; or
- (b) after the successful bid is accepted in accordance with sub-sections (4) and (5).

(2) The procuring entity shall not open any bids or proposals after taking a decision to cancel the procurement and shall return such unopened bids or proposals.

(3) The decision of the procuring entity to cancel the procurement alongwith the reason to do so shall be immediately communicated to all the bidders who participated in the procurement process.

(4) If the bidder whose bid has been accepted as successful fails to sign any written procurement contract as required, or fails to provide any required security for the performance of the contract, the procuring entity may cancel the procurement process.

(5) If a bidder is convicted of any offence under this Act, the procuring entity may,-

- (a) cancel the relevant procurement process if the bid of the convicted bidder has been declared as successful but no procurement contract has been entered into; or
- (b) rescind the relevant contract or forfeit the payment of all or a part of the contract value if the procurement contract has been entered into between the procuring entity and the convicted bidder.

26. (1) A procuring entity shall have the power to blacklist a bidder for a specified time from participating in public procurement proceedings and inform, in writing, all procuring entities of such actions. Blacklisting.

(2) A bidder who has been blacklisted and/or debarred from taking part in public procurement by an international organization or by Government of India or any other State Government, shall automatically be blacklisted from participating in public procurement in the State for such period as is

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debarred by that international organization or Government of India or any other State Government, as the case may be.

(3) A bidder shall be black listed from participating in public procurement or disposal proceedings if,-

- (a) fraud or corrupt practice is established against the bidder in accordance with the provisions of this Act; or
- (b) the bidder fails to abide with a bid securing declaration; or
- (c) the bidder breaches a procurement contract; or
- (d) the bidder makes false representation about his qualifications during bid proceeding.

(4) Subject to sub-section (3), the procedure for blacklisting shall be such, as may be prescribed.

(5) A bidder blacklisted pursuant to this section may appeal against such decision within twenty one days from the date when he became aware or should have become aware of such a decision.

(6) A procuring entity shall keep and maintain a record of all blacklisted firms in such manner, as may be prescribed.

(7) A bidder blacklisted under this section shall not be eligible to bid through a new supplies, contracting or consulting or services firm for the purpose of public procurement during the period of blacklisting.

(8) All procuring entities shall not procure from, contract with or engage a bidder who has been blacklisted from participating in public procurement proceedings pursuant to this Act.

(9) The procuring entity shall inform the relevant professional bodies, if applicable, upon blacklisting a bidder.

(10) For the purpose of this section, a blacklisted bidder shall include all the director(s)/partners/proprietors/associates/promoters of the company or firm or limited liability partnership, as the case may be.

Chapter VI

Procurement methods

Methods of
procurement.

27. (1) Subject to the provisions of this Act and the rules made thereunder, a procuring entity may procure a subject matter of procurement by means of any of the following methods, namely:-

-
- (a) Open Competitive Bidding; or
 - (b) Limited Bidding; or
 - (c) Two stage Bidding; or
 - (d) Single Source Procurement; or
 - (e) Reverse Auction; or
 - (f) Request for Quotations; or
 - (g) Spot Purchase; or
 - (h) Competitive negotiations; or
 - (i) Rate Contract; or
 - (j) Government e-Market (GeM); or
 - (k) Swiss Challenge; or
 - (l) any other method of procurement notified by the State Government satisfying the principles of procurement contained in this Act and which the State Government considers necessary in public interest.

(2) Except as provided in section 33 of this Act, E-procurement shall be compulsory for different stages and types of procurement to be carried out under this Act. Every requirement for written communication under this Act shall, therefore, be deemed to have been satisfied if it were done by electronic means:

Provided that, in case, a procuring entity chooses to carry out public procurement under this Act, through physical means, it shall be only after a prior approval of the Administrative Department.

(3) In procuring a subject matter of procurement, every procuring entity shall follow such procedure in respect of the relevant method of procurement, as may be prescribed.

(4) The financial limit for each of the procurement method shall be such, as may be prescribed.

28. (1) Every procuring entity shall prefer the open competitive bidding as the most preferred method of procurement to be followed. Open competitive bidding.

(2) Open competitive bidding may also be followed in case of two stage bidding in terms of section 31, reverse auction in terms of section 32 and rate contract in terms of section 35.

(3) The procuring entity may follow the pre-qualification procedure specified in section 16 and invite bids from pre-qualified bidders only.

(4) Where the procuring entity chooses a method of procurement other than the open competitive bidding, it shall record the reasons and circumstances thereof.

(5) In case of an open competitive bidding, the procuring entity shall invite bids by publishing an invitation to bid on the State Public Procurement Portal and in at least one such other manner, as may be prescribed.

Limited bidding. 29. (1) A procuring entity may choose to procure the subject matter of procurement by the method of limited bidding, if,-

- (a) the subject matter of procurement can be supplied only by a limited number of bidders; or
- (b) the time and cost involved to examine and evaluate a large number of bids may not be commensurate with the value of the subject matter of procurement; or
- (c) owing to an urgency brought about by unforeseen events, the procuring entity is of the opinion that the subject matter of procurement cannot be usefully obtained by adopting the method of open competitive bidding; or
- (d) procurement from a category of prospective bidders is necessary in terms of sub-section (2) of section 13.

(2) Subject to the rules as may be made in this behalf, the procedure for limited bidding shall include the following, namely:-

- (a) the procuring entity shall issue an invitation to bid by writing directly, and on the same day, to,-
 - (i) all the bidders who can supply the subject matter of procurement in terms of clause (a) of sub-section (1); or
 - (ii) all the bidders who are registered for the subject matter of procurement with the procuring entity or with any other procuring entity, where procuring entity uses the list of registered bidders of such other procuring entity in terms of sub-section (5) of section 18; or
 - (iii) an adequate number of bidders who can supply the subject matter of procurement selected in a non-discriminatory manner to ensure effective competition, in case of clause (b) of sub-section (1); and
- (b) a procuring entity may allow all prospective bidders who fulfill the qualification criteria laid down for the procurement, whether

an invitation to bid has been issued to such a bidder or not, to participate in the bidding process.

30. (1) A procuring entity may choose to procure the subject matter of procurement by the method of single source procurement, if,- Single source procurement.

- (a) the subject matter of procurement is available only from a particular prospective bidder, or a particular prospective bidder has exclusive rights with respect to the subject matter of procurement, such that no reasonable alternative or substitute source exists, and the use of any other procurement method would, therefore, not be possible; or
- (b) owing to a sudden unforeseen event, there is an extremely urgent need for the subject matter of procurement, and engaging in any other method of procurement would be impractical; or
- (c) the procuring entity, having procured goods, equipment, technology or services from a supplier, determines that additional supplies or services must be procured from that supplier for reasons of standardization or because of the need for compatibility with existing goods, equipment, technology or services; or
- (d) there is an existing contract for the subject matter of procurement which can be extended for additional goods, works or services and that the procuring entity is satisfied that no advantage would be obtained by further competition, the prices are reasonable and provisions for such extension exist in the original contract; or
- (e) the procuring entity determines that the use of any other method of procurement is not appropriate for the protection of national security interests; or
- (f) procurement from a particular prospective bidder is necessary in terms of sub-section (2) of section 13; or
- (g) subject matter is of artistic nature; or
- (h) subject matter of procurement is of such nature as requires the procuring entity to maintain confidentiality.

(2) Subject to the rules as may be made in this behalf, the procedure for single source procurement shall include the following, namely:-

- (a) the procuring entity shall solicit a bid from a single prospective bidder; and

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Two stage
bidding.

- (b) the procuring entity may engage in negotiations in good faith with the bidder.
31. (1) A procuring entity may choose to procure the subject matter of procurement by the method of two stage bidding, if,-
- (a) it is not feasible for the procuring entity to formulate detailed specifications or identify specific characteristics for the subject matter of procurement, without receiving inputs regarding its technical aspects from bidders; or
 - (b) the character of the subject matter of procurement is subject to such rapid technological advances and market fluctuations to make open competitive bidding unfeasible; or
 - (c) the procuring entity seeks to enter into a contract for the purpose of research, experiment, study or development, except where the contract includes the production of items in quantities sufficient to establish their commercial viability or to recover research and development costs; or
 - (d) the bidder is expected to carry out a detailed survey or investigation and undertake comprehensive assessment of risks, costs, and obligations associated with the particular procurement.
- (2) Subject to the rules as may be made in this behalf, the procedure for two stage bidding shall include the following, namely:-
- (a) in the first stage of the bidding process, the procuring entity shall invite bids containing the technical aspects and contractual terms and conditions of the proposed procurement without a bid price;
 - (b) all first stage bids, which are otherwise eligible, shall be evaluated in accordance with the procedure laid down in the rules through an appropriate committee constituted by the procuring entity;
 - (c) the committee may hold discussions with the bidders and if any such discussion is held, equal opportunity shall be given to all bidders to participate in the discussions;
 - (d) in revising the relevant terms and conditions of the procurement, the procuring entity shall not modify the fundamental nature of the procurement itself, but may add, amend or delete any specifications of the subject matter of procurement or criterion for evaluation;

- (e) notwithstanding anything contained in sections 28 and 29, in the second stage of the bidding process, the procuring entity shall invite bids from all those bidders whose bids at the first stage were not rejected, to present final bid with bid prices in response to a revised set of terms and conditions of the procurement; and
- (f) any bidder, invited to bid but not in a position to supply the subject matter of procurement due to changes in the specifications, may withdraw from the bidding proceedings without forfeiting any bid security that he may have been required to provide or being penalized in any way, by declaring his intention to withdraw from the procurement proceedings with adequate justification.

32. (1) A procuring entity may choose to procure a subject matter of Reverse auction. procurement by the method of reverse auction, if,-

- (a) it is feasible for the procuring entity to formulate a detailed description of the subject matter of the procurement;
- (b) there is a competitive market of bidders anticipated to be qualified to participate in the reverse auction, such that effective competition is ensured; and
- (c) the criteria to be used by the procuring entity in determining the successful bid are quantifiable and can be expressed in monetary terms.

(2) Subject to the rules as may be made in this behalf, the procedure for reverse auction shall include the following, namely:-

- (a) the procuring entity shall invite bids to the reverse auction by causing an invitation to be published in accordance with sub-section (5) of section 28 or issued in accordance with sub-section (2) of section 29, as the case may be; and
- (b) the invitation shall, in addition to the information as set out in bidding documents, include details relating to,-
 - (i) access to and registration for the auction;
 - (ii) opening and closing of auction;
 - (iii) norms for conducting the auction; and
 - (iv) any other information as may be relevant to the method of procurement.

Request for
quotations and
spot purchase.

(3) Reverse auction may also be used for obtaining the best financial bid in two stage bidding under section 31 and where the two envelope bid system is followed in terms of section 15.

33. (1) A procuring entity may choose to procure a subject matter of procurement of value below a monetary value as may be prescribed, by the method of request for quotations in the following situations, namely:-

- (a) procurement of readily available commercial-off-the-shelf goods that are not specially produced to the particular description of the procuring entity and for which there is an established market; or
- (b) physical services that are not specially provided to the particular description of the procuring entity and are readily available in the market; or
- (c) procurement of any goods or works or services that are urgently required for maintenance or emergency repairs.

(2) Subject to the rules as may be made in this behalf, the procedure for request for quotations shall include the following, namely:-

- (a) quotations shall be requested from as many potential bidders as practicable, subject to a minimum of three;
- (b) each bidder shall be permitted to submit only one quotation; and
- (c) the successful quotation shall be the lowest priced quotation meeting the needs of the procuring entity as set out in the request for quotations.

(3) A procuring entity may do a spot purchase of the subject matter of procurement specified in sub-section (1) through a purchase committee comprising three members within the procuring entity and in such cases the purchase committee shall record a certificate to the effect that it is satisfied that the goods or services are of requisite quality and are priced at the prevailing market rate.

(4) Nothing contained in sections 6, 8, 10, 11, 12, 13, 14, 15, 16, 18, 21, 22, 23, 24, 25, 39, 40, 41, 42, 43 and Chapter XI shall apply to purchases made under this section.

Competitive
negotiations.

34. (1) A procuring entity may choose to procure a subject matter of procurement by the method of competitive negotiations, if,-

- (a) owing to an urgency brought about by unforeseen events, the procuring entity is of the opinion that the subject matter of

procurement cannot be usefully obtained by adopting the method of open competitive bidding or any other method; or

- (b) the subject matter of procurement involves livestock, agricultural produce, power or other items whose prices fluctuate frequently and in the opinion of the procuring entity the subject matter of procurement cannot be usefully obtained by adopting the method of open competitive bidding or any other method.

(2) Subject to the rules as may be made in this behalf, the procedure for competitive negotiation shall include the following, namely:-

- (a) purchase of the subject matter of procurement under this section shall be made through a purchase committee comprising three members within the procuring entity and in such cases the purchase committee shall record a certificate to the effect that it is satisfied that the subject matter of procurement is of requisite quality and are priced at the prevailing market rate;
- (b) to ensure effective competition, an adequate number, not being less than three, of potential bidders selected in a non-discriminatory manner shall be included in the procurement process; and
- (c) an equal opportunity shall be given to all bidders to participate in the negotiations.

(3) Nothing contained in sections 6, 8, 10, 11, 12, 13, 14, 15, 16, 18, 21, 22, 23, 24, 25, 39, 40, 41, 42, 43 and Chapter XI shall apply to purchases made under this section.

35. (1) A procuring entity may choose to engage in a rate contract procedure in accordance with the rules as may be made in this behalf, where it determines that the need for the subject matter of procurement is expected to arise on an indefinite or repeated basis during a given period of time; Rate contract.

(2) A procuring entity may award a rate contract based on open competitive bidding or by means of other procurement methods in accordance with the provisions of this Act.

(3) Subject to the rules as may be made in this behalf, the procedure for rate contract shall include the following, namely:-

- (a) the manner in which rate contract is to be entered into, including selection of the method of bidding to be followed; and
- (b) the manner in which a procurement contract has to be entered into using rate contract procedure.

Government
E-Market
(GeM).

36. (1) The Government of India hosts an online Government e-Market Place (GeM) on pilot basis, for common use goods and services. The electronic and online procurement process on GeM is end to end from placement of supply order to payment to suppliers.

(2) A procuring entity may view, compare and directly purchase online, the goods and services offered by various suppliers on GeM under such conditions, as may be prescribed.

Swiss Challenge.

37. (1) A procuring entity may choose to procure the subject matter of procurement by the method of Swiss Challenge, under such conditions, as may be prescribed.

(2) The procedure for Swiss Challenge shall be such, as may be prescribed.

Additional
conditions for use
of methods of
procurement.

38. Notwithstanding anything contained in sections 29 to 35 (both inclusive), the State Government may through notification, add the conditions for the use of any of the methods of procurement mentioned in clauses (b) to (i) of sub-section (1) of section 27, in a manner that is consistent with the principles of transparency and accountability.

Chapter VII

Bid evaluation and contracting

Criteria for
evaluation.

39. (1) Save as otherwise provided in this Act or the rules or guidelines made thereunder or in any other law presently in force, the evaluation criteria shall relate to the subject matter of procurement and may include,-

- (a) the price;
- (b) the cost of operating, maintaining and repairing goods or works, the time for delivery of goods, completion of works or provision of services, the characteristics of the subject matter of procurement, such as the functional characteristics of goods or works and the environmental characteristics of the subject matter, the terms of payment and of guarantees in respect of the subject matter of procurement; and
- (c) where relevant, the experience, reliability and professional and technical competence of the bidder and of the personnel to be involved in providing the subject matter of procurement.

(2) Where considered necessary, the procuring entity may also specify trials, sample testing and other additional methods of technical evaluation of a bid:

Provided the requirement of such trials, sample testing or additional methods of evaluation shall be indicated in the bidding documents and a record of such trials and testing shall be maintained in such manner, as may be prescribed.

(3) To the extent practicable, all non-price evaluation criteria shall be objective and quantifiable.

(4) The criteria for evaluation of bids, including whether the requirements laid down in sub-section (2) of section 13 are applicable, shall be contained in the bidding documents.

(5) Where applicable, the relative weights to be attached to each criterion shall be specified in the bidding documents.

(6) No criteria or procedure, other than those mentioned in the bidding documents shall be used by the procuring entity in evaluating bids.

40. Save as otherwise provided in section 30 or section 34 or in such circumstances and subject to such conditions as may be prescribed, no price negotiation shall be held by a procuring entity with a bidder with respect to a bid presented by him, except in certain exceptional situations and in such exceptional circumstances, negotiations will only be with the lowest bidder for procurement. Price negotiations.

41. (1) The terms and conditions of the procurement contracts entered into shall be in accordance with the provisions of this Act and the rules made thereunder and the conditions indicated in the bidding documents. Terms and conditions of contracts.

(2) The State Government shall prescribe standard terms and conditions of contract separately for goods, works and services, as may be applicable.

(3) The standard terms and conditions prepared in pursuance of sub-section (2) shall be incorporated in the procurement contracts entered into by procuring entities as applicable. The procuring entity shall include special terms and conditions specific to subject matter of the procurement.

42. (1) Subject to the provisions of sub-section (2) of section 13 and section 24, the procuring entity shall consider a bid as successful,- Award of contract.

(a) where price is the only award criterion, the bid with the lowest bid price in case of procurement or the highest bid price in case of disposal of public asset.

(b) where there are price and other award criteria, the most advantageous bid ascertained on the basis of the criteria and procedures for evaluating bids as specified in the bidding documents;
or

- (c) where there are no financial criteria, the most advantageous bid ascertained on the basis of selected non-financial criteria or other parameters for evaluating bids as specified in the bidding documents.
- (2) A bid shall be treated as successful in terms of sub-section (1), only after the competent authority has approved the procurement in terms of that bid.
- (3) As soon as the procuring entity, with the approval of the competent authority, decides to accept a bid, it shall communicate that fact to all participating bidders and also publish the decision on the State Public Procurement Portal.
- (4) While communicating acceptance of the bid, the procuring entity shall advise the successful bidder to complete the requirements within a specified time, including signing of any agreement or furnishing any security, if necessary, to conclude the procurement contract.

Chapter VIII

State Public Procurement Portal

State Public
Procurement
Portal.

43. (1) The State Government shall set up and maintain a State Public Procurement Portal accessible to the public for posting matters relating to public procurement.
- (2) Each procuring entity shall cause the procurement related information to be published as required under this Act or the rules and guidelines made thereunder on the Portal referred to in sub-section (1), including amendments on a time-to-time basis.
- (3) Without prejudice to the generality of sub-section (2), the State Public Procurement Portal shall provide access to the following information in relation to procurement governed by the provisions of this Act, namely:-
- (a) annual procurement plans;
 - (b) pre-qualification documents, bidder registration documents, bidding documents and any amendments, clarifications including those pursuant to pre-bid conference, and corrigenda thereto;
 - (c) list of bidders who presented bids including during pre-qualification or bidder registration, as the case may be;
 - (d) list of pre-qualified and registered bidders, as the case may be;
 - (e) list of bidders excluded under section 24, with reasons;

-
- (f) decisions under sections 49 and 50;
 - (g) details of successful bids, their prices and bidders;
 - (h) particulars of bidders who have been blacklisted under section 26 alongwith the name of the procuring entity, cause for the blacklisting action and the period of blacklisting; and
 - (i) data on resolution of complaints related to procurement.
- (4) All procurement to be made by the procuring entity shall atleast be published on the State Public Procurement Portal.
- (5) The State Public Procurement Portal shall also contain such other information, as may be prescribed.

Chapter IX Institutional Arrangement

44. (1) Notwithstanding anything contained in this Act but subject to the provisions of any other law for the time being in force providing for disclosure of information, a procuring entity shall not disclose any information if such disclosure, in its opinion, is likely to,- Confidentiality.
- (i) impede enforcement of any law; or
 - (ii) affect the security or strategic interests of India; or
 - (iii) affect the intellectual property rights or legitimate commercial interests of bidders; or
 - (iv) affect the legitimate commercial interests of the procuring entity.
- (2) Except as otherwise provided in this Act, a procuring entity shall treat all communications with bidders related to the procurement process in such manner as to avoid their disclosure to competing bidders or to any other person not authorised to have access to such information.
- (3) The procuring entity may impose on bidders and sub-contractors, if there are any, for fulfilling the terms of the procurement contract, conditions aimed at protecting information, the disclosure of which violates sub-section (1).
- (4) Notwithstanding anything to the contrary contained in any other law for the time being in force, where any expenditure is to be incurred on any procurement of goods, works or services, it shall be the duty of the officer as may be designated by the procuring entity under this Act to ensure that the procurement of goods, works or services is in accordance with the procedures specified in this Act or rules made thereunder.

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Procurement
Facilitation.

45. (1) The State Government may establish a Directorate of Procurement Policy and Enforcement which shall be headed by an officer not below the rank of a Special Secretary to the State Government.

(2) The Directorate shall draw the officials from various Administrative Departments of the Government of Punjab, including from its Law Enforcement Agencies or procuring entities, on deputation basis to discharge the functions entrusted upon it.

(3) The Directorate shall discharge the following functions, namely:-

- (a) to maintain and update the State Public Procurement Portal set up under section 43;
- (b) to arrange for training and certification;
- (c) to recommend to the State Government measures for effective implementation of the provisions of this Act;
- (d) to provide guidance, consistent with the provisions of this Act and the rules and guidelines made thereunder, to the procuring entities with respect to the matter relating to public procurement;
- (e) to study different methods of public procurement and prepare and recommend standard bidding documents, pre-qualification documents or bidder registration documents; and
- (f) to discharge such other functions, as may be assigned to it by the State Government.

(4) The Directorate shall have the power to require a procuring entity or any other person by notice in writing to furnish such information as may be necessary for performing its functions under this Act. The information shall be kept confidential till the procurement process is completed.

Officers and
employees to be
public servants.

46. Every officer or employee of a procuring entity or any member of a committee constituted under this Act, acting under or in pursuance of the provisions of this Act or rules, guidelines, orders or notifications made thereunder, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860).

Protection of
action taken in
good faith.

47. No suit, prosecution or other legal proceedings shall lie against any officer or employee or any other person acting in the discharge of any function under this Act for any loss or damage caused or likely to be caused by any act which is done or intended to be done in good faith and in pursuance of the provisions of this Act.

Chapter X

Procurement Performance Management

48. The audit of each procuring entity shall, in the audit report, include whether the provisions of this Act and rules made thereunder have been complied with for all procurements. Audit.

Chapter XI

Appeal

49. (1) Subject to section 50, if any bidder or prospective bidder is aggrieved that any decision, action or omission of the procuring entity is in contravention to the provisions of this Act or the rules or guidelines issued thereunder, he may file an appeal to such officer of the procuring entity, as may be designated by the procuring entity for the purpose, within such period, as may be prescribed clearly giving the specific ground or grounds on which he feels aggrieved: Appeals.

Provided that after the declaration of a bidder as successful in terms of section 42, the appeal may be filed only by a bidder who has submitted a bid with the procuring entity:

Provided further that in case a procuring entity evaluates the technical bid before the opening of the financial bid, an appeal related to the matter of financial bid may be filed only by a bidder whose technical bid is found to be acceptable.

(2) On receipt of an appeal under sub-section (1), the officer designated under that sub-section shall, after affording a reasonable opportunity of being heard to the parties, determine as to whether or not the procuring entity has complied with the provisions of this Act, the rules and guidelines made thereunder and the terms of the pre-qualification documents, bidder registration documents or bidding documents, as the case may be, and pass an order accordingly which shall be final and binding on the parties to the appeal.

(3) The officer to which an appeal may be filed under sub-section (1) shall be specified by the procuring entity in the pre-qualification documents, bidder registration documents or bidding documents, as the case may be.

(4) While hearing an appeal under this section, the officer concerned shall follow such procedure, as may be prescribed.

(5) No information that would impair the protection of essential security interests of India, or impede the enforcement of law or fair competition, or prejudice the legitimate commercial interests of the bidder or the procuring

entity, shall be disclosed in a proceeding under this section.

Appeal not to lie
in certain cases.

50. No appeal under section 49 shall lie against any decision of the procuring entity relating to the following matters, namely:-

- (a) determination of need of procurement in terms of section 8;
- (b) provisions limiting participation of bidders in the bid process in terms of the provisions of section 13;
- (c) the selection of a procurement method in terms of chapter VI;
- (d) the decision of whether or not to enter into negotiations in terms of section 40;
- (e) cancellation of a procurement process in terms of section 25;
- (f) applicability of the provisions of confidentiality under section 44;
and
- (g) any other matter as may be prescribed.

Chapter XII

Offence and Penalties

Punishment for
taking
gratification or
valuable thing in
respect of public
procurement.

51. Whoever, being an officer or employee of the procuring entity acting in connection with any procurement process, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification other than legal remuneration or any valuable thing without consideration or for a consideration which he knows to be inadequate, in connection with such public procurement, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, shall be punishable with imprisonment which shall not be less than six months but which may extend to seven years and shall also be liable to fine, which may extend to fifty lakh rupees or ten per cent of the assessed value of procurement, whichever is less.

Interference with
procurement
process.

52. (1) Whoever,-

- (a) interferes with or influences any procurement process with the intention of securing any wrongful gain or undue advantage for any prospective bidder or bidder; or
- (b) interferes with the procurement process with the intention of causing any unfair disadvantage for any prospective bidder or bidder; or

- (c) engages in any action or lobbying, directly or indirectly, with the objective of unduly restricting fair competition; or
- (d) intentionally influences any procuring entity or any officer or employee thereof or wilfully or fraudulently makes any assertion or representation that would restrict or constrain fair competition in any procurement process; or
- (e) engages a former officer or employee of a procuring entity as an employee, director, consultant, adviser or otherwise, within a period of one year after such former officer or employee was associated with a procurement in which the employer had an interest; or
- (f) engages in any form of bid-rigging, collusive bidding or anti competitive behaviour in the procurement process; or
- (g) intentionally breaches confidentiality referred to in section 44 for any undue gain,

shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine which may extend to fifty lakh rupees or ten per cent of the assessed value of procurement, whichever is less.

(2) A bidder who,-

- (a) withdraws from the procurement process after opening of financial bids; or
- (b) withdraws from the procurement process after being declared the successful bidder; or
- (c) fails to enter in to procurement contract after being declared the successful bidder; or
- (d) fails to provide performance security or any other document or security required in terms of the bidding documents after being declared the successful bidder, without valid grounds,

shall in addition to the provisions of section 26 be punished with fine which may extend to fifty lakh rupees or ten per cent of the assessed value of procurement, whichever is less.

53. Whoever intentionally files any vexatious, frivolous or malicious appeal or complaint under this Act, with the intention of delaying or defeating any procurement or causing loss to any procuring entity or any other bidder, shall be punished with fine which may extend to twenty lakh rupees or five per cent of the value of procurement, whichever is less.

Vexatious appeals or complaints.

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Offences by
companies.

54. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of having committed the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable for any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of having committed such offence and shall be liable to be proceeded against and punished accordingly.

Explanation - For the purpose of this section,-

- (i) "company" means a body corporate and includes a limited liability partnership, firm, registered society or co-operative society, trust or other association of individuals; and
- (ii) "director" in relation to a limited liability partnership or firm, means a partner in the firm.

Abetment of
certain offences.

55. Whoever abets an offence punishable under this Act, whether or not that offence is committed in consequence of that abetment, shall be punished with the punishment provided for the offence.

Debarment from
bidding.

56. (1) A bidder shall be debarred by the State Government if he has been convicted of an offence,-

- (a) under the Prevention of Corruption Act, 1988 (Central Act No. 49 of 1988); or
- (b) under the Indian Penal Code, 1860 (Central Act No. 45 of 1860) or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract.

(2) A bidder debarred under sub-section (1) shall not be eligible to participate in a procurement process of any procuring entity for a period not exceeding three years commencing from the date on which he was debarred.

(3) If a procuring entity finds that a bidder has breached the code of integrity specified in section 7, it may debar the bidder for a period not exceeding three years.

(4) Where the entire bid security or the entire performance security or any substitute thereof, as the case may be, of a bidder has been forfeited by a procuring entity in respect of any procurement process or procurement contract, the bidder may be debarred from participating in any procurement process undertaken by the procuring entity for a period not exceeding three years.

(5) The State Government or a procuring entity, as the case may be, shall not debar a bidder under this section unless such bidder has been given a reasonable opportunity of being heard.

57. No court shall take cognizance of an offence punishable under this Act, alleged to have been committed by a public servant during the course of his employment, except with the previous sanction,- Previous sanction necessary for prosecution.

- (a) in case of a person who is employed in connection with the affairs of the State and is not removable from his office save by or with the sanction of the State Government, of that Government; and
- (b) in the case of any other person, of the authority competent to remove him from his office.

Chapter XIII

Miscellaneous

58. The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law for the time being in force. Application of other laws.

59. Any sum payable by any person under this Act shall be recoverable as arrears of land revenue in terms of the provisions of the Punjab Land Revenue Act, 1887 (Punjab Act No. XVII of 1887). Recovery of sums payable under the Act.

60. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

(2) Every rule made under this section, shall be laid, as soon as may be, after it is made, before the House of the State Legislature while it is in session for a total period of ten days, which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the successive sessions as aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of

no effect, as the case may be, however any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Power to issue guidelines. 61. Subject to the provisions of this Act and the rules made thereunder the State Government may issue guidelines for giving effect to the provisions of this Act and the rules made there under.

Power to remove difficulties. 62. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly.

Power to exempt. 63. (1) If the State Government is satisfied that it is necessary in public interest so to do, it may, by order published in the Official Gazette and for reasons to be recorded in such order, exempt any procurement or a class or category of procurements or a class or category of procuring entities from the application of all or any of the provisions of this Act.

(2) Every order made under sub-section (1) shall, as soon as may be after it is made, be laid before the Legislative Assembly.

Savings. 64. All rules, regulations, orders, notifications, departmental codes, manuals, bye-laws, official memoranda or circulars relating to procurement of goods, services or works provided for in this Act, which are in force on the date of commencement of this Act, shall continue to be in force to the extent they are consistent with the provisions of this Act, until they are repealed or superseded by any rule, guideline, notification or order, as the case may be, made or issued under this Act.

S.K. AGGARWAL,
Secretary to Government of Punjab,
Department of Legal and Legislative Affairs.