

SECTION 2 : PRE-AWARD

Chapter 1

1.0 PREAMBLE:

- 1.1 Procurements for Projects or for any other requirement shall be undertaken through contracting.
- 1.2 Notwithstanding the above, under compelling circumstances wherever appropriate or where the value of goods, works, and services is of smaller magnitude, the same can be carried out departmentally, through 'direct labour', 'departmental force' or 'direct purchases'.
- 1.3 The Procurements through contracts generally involve the following major pre-award activities:
 - (i) Project Conception, Approval and Investment Approval
(shall generally mean such approval/ agreement or similar document which signifies administrative/ financial sanction for proceeding ahead with the procurement)
 - (ii) Contract Package List
 - (iii) Master Network/ Project Execution Plan
 - (iv) Cost Estimate
 - (v) Qualification Requirement (QR) of Bidders
 - (vi) Bidding Documents
 - (vii) Bidding Process
 - (viii) Modes of Tendering/Bidding
 - (ix) Invitation for Bids (IFB)/ Notice Inviting Tenders (NIT)/ Notice Inviting Bids (NIB)
 - (x) Sale of Bidding Document
 - (xi) Bid Receipt and Opening
 - (xii) Evaluation of Bids and Bid Evaluation Report (BER)
 - (xiii) Post Bid Discussions
 - (xiv) Notification of Award (NOA)/ Letter of Intent (LOI), Work Order (WO), Contract Agreement (CA) and Initial Security Deposit (ISD)/Contract Performance Guarantee (CPG).
 - (xv) Other Aspects and Issues

Chapter 2

2.0 **PROJECT CONCEPTION AND INVESTMENT APPROVAL:**

[Responsibility Centre: Corporate Planning Dept.in consultation with Survey & Investigation(S&I) Department and Design & Engineering (D&E) Department as and where necessary]

2.1 **Project Conception**

2.1.1 **New Projects:**

The New Projects are

- (i) Identified based on Survey of India Topo sheet, available river discharge, Rainfall and other related data for Hydro Projects. Most of the projects in the country are already identified by CEA/State Govts./ various developers.

For thermal projects availability of Fuel (Coal, Gas, Naptha etc.), water and Land is studied. Desktop study is conducted with available information.

Collection of information through Reconnaissance Survey and/or available reports viz. PFR/FR/DPR etc. based on which decision is taken whether to approach the State Govt. for allotment for further studies and development.

- (ii) Respective State Govt. is approached for allotment of the project either through direct persuasion or through participation in bidding process, if any.
- (iii) Terms and conditions are finalised for development of the project by signing an MOA with the respective State Govt.
- (iv) On getting allotment, the project along with the available information is handed over to S&I wing who carries out necessary investigation for preparation/updation of PFR/FR/DPR etc.

Time required for DPR preparation is about 2 ½ years for Hydro Projects. For thermal projects it could be completed in few months.

- (v) Once the PFR for the project is available, based on the PFR, application is submitted to State Forest Department for diversion of forest land i.e. Forest Clearance St-I (FC-I). On completion of DPR, the application for FC-I is to be resubmitted based on the DPR, if necessary.
- (vi) Based on the PFR and the application made for FC-I, application is submitted to MOEF&CC for approval of Terms of Reference for carrying out the Comprehensive Environmental Studies and investigation works like Drilling, Drifting, survey etc. for preparation of DPR.

On approval of the TOR, comprehensive environmental studies are taken up for preparation of Environmental Impact Assessment (EIA) and Environment Management Plan (EMP).

Completing the necessary formalities, the EIA/EMP are submitted to State Pollution Control Board through whom Public Hearing is conducted and Environment Clearance from MOEF&CC, GOI is obtained.

- (vii) On approval of the aforesaid TOR and with certain preliminary investigation, CEA is approached for 1st Consultation meeting where the detail investigation works are planned considering various alternatives.

With detail investigation data, 2nd Consultation meeting is held wherein investigation results are discussed and concluded based on which DPR is finalized and TEC is obtained from CEA/State Govt.

Meanwhile, approval from relevant authorities are obtained on hydrology, power potential, geological studies etc. as and when ready at different stages during DPR preparation before submission of the DPR for accordance of TEC.

- (viii) Once FC-I is obtained, based on the advice therein, payment towards CA, CAT and NPV etc. is made and final Forest Clearance i.e. FC-II is obtained from MOEF&CC through SFD.
- (ix) Tender specifications are prepared for different packages for the project works as an advance action.
- (x) Signing of Long Term Open Access (LTOA) Agreement with power transmission utility.
- (xi) Signing of PPA with beneficiary states.
- (xii) Achievement of Financial Closure for the project.
- (xiii) On obtaining TEC, EC, Stage-I FC for the project, draft PIB Memo is submitted to the MOP and recommendation of PIB to CCEA/EFC is obtained.
- (xiv) Obtaining CCEA clearance (Investment Approval). Date of CCEA clearance is the zero date of commencement of construction of the project.

Pending Investment Approval of a project, certain expenditure (advance expenditure) is required to incurred for activities such as survey for BoQ preparation for Feasibility Report, boundary wall, filing of forest clearance proposals, land acquisitions etc. For this purpose, Pre-Investment Approval (also referred to as Preliminary Approval) by the Board/CMD, shall be obtained.

Corporate Planning department shall be coordinating department for the same.

Generally, PA / Administrative approval for incurring expenditure wherever PA is not applicable viz. Incidental/ Miscellaneous Projects etc shall be a condition precedent for release of Invitation for Bids (IFB)/Notice Inviting Tender (NIT) for different contract packages of the project and for incurring expenditure related the IFB/NIT.

Investment Approval of the Project (Administrative Approval for incurring expenditure wherever Investment Approval is not applicable) shall be a condition precedent for award of contracts for Procurement.

The Competent Authority for all Investment Approval shall be as per the Delegation of Power.

2.1.2 Miscellaneous Projects/Works

Besides the project/works referred to in the foregoing para, various other projects/works might need to be taken up from time to time. The project conception/work requirement for the same shall be taken up by concerned deptt. (Also called Indenting Department) who shall also be the coordinating deptt. for various activities related to conception and implementation pursuant to conception for the same. The concerned department shall prepare the drawings (wherever necessary) and estimate in consultation with D&E Department wherever necessary. Based on the above, concerned department shall obtain technical and administrative approval from appropriate authority of NEEPCO for taking up subsequent activities. Concerned deptt. shall be the co-ordinating deptt. for activities related to respective procurements.

The tenders shall be conducted by the concerned department (HOP/HOD or their delegated representative at Project level, Corporate head quarter and all office/establishments of NEEPCO. If necessity arises, tenders may be referred to corporate Contract & Procurement Department with the approval of Director (Technical) for invitation of Bids, processing and award. However, in such case all required inputs including approval on estimated cost, technical specification, BOQ, tender drawings, time of completion, payment terms, brief description of the project, qualifying requirement for bidders shall be provided by the Indenting authority in consultation with other departments wherever necessary.

Chapter 3

3.0 **CONTRACT PACKAGE LIST FOR PROCUREMENT:**

[Responsibility Centre: Indenting Dept. viz. Corporate Planning /D&E/S&I/O&M/Project(Hydro)/Renewal Energy/ IT/ HOP/HOD/ HR/ etc. as the case may be]

- 3.1 Various elements & works of the project shall be divided into appropriate packages for bid invitation and award of contracts for better co-ordination & interfacing, attracting competition & facilitating cost effective procurement.
- 3.2 The Package List shall include all the packages alongwith their name, indicative cost, completion period, mode/method of procurement.
- 3.3 Due justification shall be recorded in case the method of procurement is other than Open Competitive Bidding. In case, method of procurement for one or more packages is Limited Tender Invitation/Single Tender Invitation, the names of prospective bidders shall also be included in the proposal for approval of Package List.
- 3.4 While packaging, magnitude, nature, location, time schedule and estimated cost of various elements & works covered under the projects shall be considered.
- 3.5 Elements/works of one or more projects may be clubbed for appropriate sizing of packages for procurement.
- 3.5.1 While clubbing, Investment Approval or other aspects of different projects shall be suitably considered so that the award of contracts for the clubbed elements/works is possible in nearly the same time frame.
- 3.6 Generally following types of packages shall be dealt with at Corporate level:
 - (a) Packages for supply & works of new projects.
 - (b) Packages of high value.
 - (c) Packages requiring specialized technical/commercial/legal knowledge.
 - (d) Packages funded by multilateral or bilateral financing institutions/Supplier's Credit.

Chapter 4

4.0 **MASTER NETWORK & PROJECT EXECUTION PLAN AND FINALIZATION OF COST ESTIMATE:**

[Responsibility Centre: (i) Indenting Deptt. (ii) D&E/CPM/CP Department as the case may be for new projects and other plant works requiring specialized technical knowledge]

4.1 **Master Network & Project Execution Plan**

4.1.1 Following two (2) tools shall be used for monitoring purpose:

- (i) Master Network (MNW)
- (ii) Project Execution Plan (PEP)

4.1.2 MNW and/or Project Execution Plan (PEP) shall be developed incorporating key activities and the important milestones of the project like Preparatory activities prior to Investment Approval/ Investment Approval (wherever required)/Finalization of Package list wherever required/ Tendering, award and signing of agreement for required Consultancy projects and packages/ obtaining statutory clearances viz. forest & environment clearance (wherever required)/ Land acquisition/ Identification of quarry and acquisition/ commencement and completion dates of the project with package-wise break-up, from conception to commissioning.

4.1.3 The PEP for every project shall be an evolving document and shall be updated/reviewed at regular interval by CPM Department based on actual progress and development.

4.2 **Preparation of NIT Cost Estimate**

[Responsibility Centre: (i) D&E Department for new projects estimates and other plant works requiring specialized technical knowledge and (ii) respective Indenting Dept. for cases dealt with by them as the case may be]

4.2.1 The NIT Cost Estimate for different types of projects/works shall be prepared as below.

- (a) New Projects
 - Consultant for preparation of DPR
 - Consultant for EIA & EMP studies
 - Consultant for Design & Review.
 - Package works.
 - Infrastructure (Roads & Buildings)
 - Miscellaneous works.
- (b) O&M Projects
 - Maintenance of infrastructure
 - Plant maintenance
 - Operation and maintenance services.

4.2.2 The NIT Cost Estimate for a package based on which the Qualification Requirement for bidding are finalized shall not generally be more than 6 months old from the date of NIT, with a grace period of additional 1 month.

- 4.2.3 Once the bids are opened, the approved NIT Cost Estimate for the package shall be updated by Indenting /D&E Deptt. as the case may be at price level of one month prior to actual date of Price bid opening of the package for the purpose of comparison.
- 4.2.4 While updating the NIT Cost Estimate, the actual position in respect of applicable taxes and duties shall be taken into account.
- 4.2.5 Once the NIT Cost Estimate is prepared, it shall not be normally reviewed except in following circumstances:
- a) The gap between price level of NIT Cost Estimate and the month in which NIT is actually to be floated is more than six months.
- 4.2.6. Ideally, three budgetary quotes should be obtained. However, there is need to have a time schedule for receipt of quotes.to ensure some timeframe for this activity. Thus:
- (a) An attempt should be made to obtain as many budgetary quotes as possible from reputed/potential firms and a time of 21(Twenty One) days be indicated therefore. In the event of receipt of less than three budgetary quotes, two extensions of up to 10(Ten) days each may be considered: and
 - (b) In the event of non-availability of three quotes within the above extended period, the estimates should be prepared on the basis of the number of budgetary quote(s) received, which may even be one; and where more than one budgetary quote is received, the estimate should be framed on an average of the quotes which will reduce variations and fluctuations
- 4.2.7 For Consultancy services, once the need for service has been identified the following are to be finalized:
- i) Preparation of Terms of Reference (TOR)
 - a) Detailed Scope of Work
 - b) Expected requirement of key professionals and kind of expertise
 - c) Deliverables and Reports Requirements
 - d) Background material, records of previous surveys etc. available and to be provided to the consultant.
 - e) Facilities such as local conveyance, office space, secretarial assistance etc., which can be provided to the consultant.
 - f) Procedure for review of the consultancy after award of contract
 - ii) Estimating Costs, Setting the Budget, and Seeking Approval
 - iii) Finalizing and Approval of the ToR
 - iv) Developing a Procurement Plan
 - v) e-Procurement

** Note:

- (i) Ref: Chapter 4, Manual for Preparation for Procurement of Consultancy & Other Services issued by Govt. of India, Ministry of Finance, Department of Expenditure (Updated June 2022).
- (ii) For proposal related to Consultancy service Ref. Clause 1.15 & Clause 1.10 of Chapter 1, Manual for Procurement of Consultancy & Other Services issued by Govt. of India, Ministry of Finance, Department of Expenditure (Updated June 2022).

Chapter 5

5.0 **QUALIFICATION REQUIREMENT (QR) OF BIDDERS AND SUB-VENDORS:**

[Responsibility Centre:

Technical QR shall be prepared by (i) D&E Department for new projects estimates and other plant works requiring specialized technical knowledge and (ii) respective Indenting Dept. for cases dealt with by them as the case may be]

Financial QR shall be prepared by corresponding Finance wing]

- 5.1 The purpose of QR is to identify such bidders who have the experience of delivering the required Works/Goods/Services to be procured.
- 5.2 The QR shall generally be drawn in such a manner to enable
 - (a) adequate participation of the bidders to the extent possible
 - (b) encourage indigenous participation.
- 5.3 Merely meeting the QR does not entitle the bidder for award of contract.
- 5.4 For award of contracts, the bidders, as per NEEPCO's assessment, should have the capacity and capability to perform the contract satisfactorily in the event of award. Accordingly, NEEPCO's right to make such assessment shall be deemed to be a part of the QR.
- 5.5 To encourage development of indigenous vendors/MSE vendors, alternative routes in the QR may be provided. In case the alternative route necessitates qualifying requirements to be relaxed with respect to those otherwise applicable, additional warranty requirements may be specified.
- 5.6 The QR, to be met on the originally scheduled date for submission of bids/ tenders/ applications/ proposals except otherwise specified, shall mainly include the following:
 - (a) Technical Experience: Normally such experience shall be by way of projects / contracts reaching completion during a given period of time (normally 7 to 10 years depending on the nature of job).
 - (b) Financial Position: Normally this shall include Minimum Average Annual Turnover (MAAT), Liquid Assets, Net Worth and Bid Capacity.

In general the requirement of MAAT, Liquid Assets, Net Worth and Bid Capacity in the QR shall be arrived at as per following:

Minimum Average Annual Turnover requirement of QR (MAAT)	<p>Minimum Average Annual Turnover of the bidder, in the best three Financial Year out of the last 5(Five) Financial year, ending 31st March of the previous financial year should not be less than the value as calculated below:</p> <p>MAAT= [(Estimated Cost x 1.5) / (Completion period in year)], which is subject to minimum of 30% and maximum of 150% of the estimated cost, for contract period of 1(one) year or more.</p> <p>However, for short duration contract of less than 1 (one) year, MAAT shall be considered as equivalent to 100% of the estimated cost of work, without</p>
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	<p>considering the aforesaid formula.</p> <p>Other income shall not be considered for arriving at the minimum average annual turnover</p>
Working Capital requirement of QR (LA)	<p>Capacity to have a cash flow amount/working capital judged from the immediately preceding financial year as per the audited balance sheet / equivalent financial statements. The working capital shall be at least 2 times the monthly cash flow requirement i.e. estimated cost of Work x 2 / Construction period in months). Working Capital/Cash Flow amount shall be calculated by subtracting Current Liabilities (CL) from Current Assets (CA) i.e. (CA-CL) as per the audited balance sheet/ equivalent financial statements including profit and loss statement of the immediately preceding financial year. If audited financial statement for the immediate preceding financial year is not available, then the bidder shall submit these statements certified by a Chartered Accountant with UDIN.</p>
Net Worth requirement of QR	<p>The Net worth of the bidder as on last day of the preceding financial year shall not be less than 25% of the Paid up Share capital.</p> <p>The Net Worth shall be calculated based on Subscribed and Paid-up Capital + Free Reserves + Unallocated balance surplus amount of Profit and Loss Account less Loss in Profit & Loss Account if not reduced from Reserves.</p>
Bid Capacity requirement of QR	<p>Available Bid Capacity = $(M \times A \times N) - B$ Where; A= Indexed value of maximum value of works executed (in an ongoing or completed project) in any one year during last 5 years, keeping index of inflation as 6% (compounded annually) for calculating 'A' at present Price Level. N= Completion period of the subject Contract Package in years. B= Value at current price level of existing commitments and on-going works (as on the latest date for bid submission) to be completed in next "N" years. M= Multiplying Factor (1.5)</p> <p>Bid capacity shall be assessed at the time of submission of Techno-commercial Bid. Bidder shall calculate their Bid Capacity as per stipulated formula and get it certified by Chartered Accountant (CA) with UDIN and submit along with their Bid</p>

- (c) Any other criteria relevant to the nature of procurement viz equipment/services/ facilities/ capacity/ experience etc. for construction/ manufacturing/ repair& maintenance/ after sales services etc.

5.7 Once the Invitation/ Notice inviting bids/ expression of interest/ application for prequalification etc. is issued/ published, the QR shall not normally be modified, except in the following cases:

- (a) Change (increase or decrease) in Cost Estimate by more than 10% due to change in bidding conditions e.g. scope of work/ completion period etc.
- (b) Any change necessary to remove ambiguity in interpretation which does not alter the intent of the QR.

Such modification/ change shall be notified through corrigendum to the original Invitation/ Notice in the same medium/same manner in which the original was notified. Notwithstanding such modifications/change, the date to be reckoned for meeting the QR shall continue to remain the originally scheduled date for submission of the bids/tenders/applications/proposals.

5.7.1 However, in case substantive modification in the QR for any other reason becomes necessary and justified in the interest of the procurement in question or as a matter of policy, the Invitation/ Notice shall be annulled and fresh Invitation/ Notice shall be issued or Corrigendum to the original Invitation/Notice shall be issued.

In case of such substantive modification in the QR, the date to be reckoned for meeting the QR shall be the rescheduled date for submission of bids/tenders/applications/proposals.

5.8 The QR for sub-vendors/ sub-contractors/ Associates, that is not included in the QR for the bidder, shall be included in the Technical Specification or such other document finalized by the Indenting Dept. for the procurement. Such QR shall generally include the Technical Experience requirement and other requirement as considered necessary by the Indenting deptt. ensuring that it is not restrictive. Preferably at least 3 sub-vendor/ sub-contractor/ Associate should be meeting the said QR. However, in cases on technical grounds where there is no other option for reasons of technical compatibility and/or quality considerations, there shall be no objection in specifying such QR which may be met by less than 3 sub-vendors/ sub-contractors/ Associates. Further, it would not be necessary that the specified QR is met by the Sub-vendor/Sub-Contractor as on the original/ actual date of bid opening.

5.9 In the normal course, if the proposed sub-contractor/sub-vendor meets the QR as on the date not later than 6 months from the date of award of contracts, the same shall be considered. The limit of 6 months can be relaxed for reasons recorded in writing by the indenting Department with the approval of the concerned ED.

5.10 The QR of a bidder shall be ascertained based on data furnished in the bid. For this, the bidder shall be asked to furnish alongwith its bid requisite declaration from its Key Managerial Personnel viz Chairman/ Managing Director of the Board of the Company/Company Secretary/ All Partners in case of Partnership firms/ Proprietor in case of Proprietorship firm, declaring the QR data to be true and correct. Such data/declaration can also be sought through post bid clarification.

5.10.1 In case at any point of time it comes to notice of NEEPCO that the QR data confirmed by the bidder in its affidavit is not authentic, the same shall be dealt with as per the provisions of the Integrity Pact wherever applicable. In case Integrity Pact is not applicable, the verification shall be carried out by a committee constituted with the approval of CMD/HOP or HOD for packages dealt with by Corporate C&P/Project or other establishments respectively and further action shall be taken on the same line as provided in the Integrity Pact with the approval of CMD/ HOP or HOD respectively.

5.10.2 If it is concluded by the IEM Panel or through the mechanism resorted to as above in case Integrity Pact is not applicable, that the data furnished by the bidder is not authentic, the bidder may be debarred from the participation in NEEPCO tenders for a certain period as

considered appropriate and its bid security shall be forfeited besides other action as deemed to be appropriate.

- 5.11 In case the QR data/documents of the bidders for QR compliance relate to NEEPCO's projects or the information is already available with NEEPCO, the same shall be considered for the bidder's QR compliance whether or not declared in the Bid.
- 5.12 A data base of QR data of different bidders shall be developed to minimize the time taken to ascertain QR compliance.

Chapter 6

6.0 **BIDDING DOCUMENTS:**

[Responsibility Centre:

Contracts Dept. for Commercial Portion ie. NIT/ ITB/ GCC/ SCC and forms related thereto including other Commercial forms;

(i) D&E Department for new projects and other plant works requiring specialized technical knowledge and (ii) respective Indenting Dept. for cases dealt with by them as the case may be, for estimated cost approved by competent authority/Budget Provision/Technical Sanction/ Tender Drawings/ Price Schedule (BOQ)/ Technical Specification/Technical data sheets, schedules and forms related thereto/ marking system, minimum manpower and equipment to be demonstrated by the bidders to judge the competency of bidders in techno-commercial evaluation, Brief description of geographical location, approach by road, railway, air and waterway, geological and meteorological information of the project]

- 6.1 Generally, the Bidding Document (BD) shall be drafted to match with procurements of different types (viz Supply/ Supply cum Installation/Civil, Hydro-mechanical, Electro-mechanical packages/ Consultancy etc.) and different mode of bidding (viz. Domestic Competitive Bidding/ International Competitive Bidding etc.) to the extent possible. The BDs for small value procurements shall be simplified and shall have only essential clauses.

(Volume-III and IV may be referred for sample Bid documents)

- 6.2 Guidelines on critical components of the bidding documents are given in the following paragraphs.

6.2.1 **General**

- (i) The Bidding Documents shall be generally structured so as to include: Invitation to bid/Notice Inviting Tender/Invitation for Bids (NIT/IFB) Expression of Interest (EOI); Information for bidders (IFB); Instructions to Bidders (ITB) and Data Sheet (DS); Form or letter of bid; Form of Contract; Conditions of Contract (both General and Special) i.e. GCC/SCC, Technical Specifications(TS) and Drawings; relevant Technical data (including geographical and environmental conditions), Quality assurance/environment protection/safety plans, list of relevant Indian/International standards to be followed, list of Goods or Bill of Quantities (BoQ); Delivery time or Schedule of completion; and necessary appendices, such as Formats for various securities, Notification of Award(NOA)/Contract Agreement(CA) etc.
- (ii) The fee charged for the bidding documents (Bid Fee) shall be reasonable and shall not be so high as to discourage qualified bidders. For Limited Tender Invitation, the fee shall be waived off.
- (iii) Bidding Documents shall be non-transferable and Bids from only those prospective bidders shall be accepted who pay the requisite cost of bidding documents except in case of bidders who are exempted from paying the cost of bidding documents.

- (iv) e-Procurement/ Electronic system shall be generally used to distribute/ sell the bidding documents. The electronic system shall be secure to avoid modifications to the bidding documents and shall not restrict the access of Bidders to the bidding documents.
- (v) **Provisions for Micro & Small Enterprises (MSEs) bidders**
- (1) The Government of India has introduced a **Public Procurement Policy (PPP) for Micro & Small Enterprises (MSEs) Order, 2012** which was notified under MSMED Act 2006 on 23rd March 2012. The said Policy has come into force w.e.f. 01.04.2012, which, amongst others, has made it mandatory that w.e.f. 01.04.2015, a minimum of 20% of the total annual procurement is to be made from MSEs by all Central Ministries/ Departments/ Central Public Sector Undertakings (CPSUs). In addition, out of 20% target of annual procurement from MSEs, a sub-target of 20% (i.e. 4% out of 20%) is to be earmarked for procurement from MSEs owned by the SC/ST entrepreneurs.
Subsequently, amendment to the said Order has been issued by Ministry of Micro, Small and Medium Enterprises vide Gazette Notification dtd 09-11-18 and communicated by Secretary, Ministry of MSME vide D.O. No. 21(8)/2018-MA Dated 13th November, 2018 whereby following are effected:
 - a. The order may be called the **"PPP for MSEs Amendment Order, 2018"**.
 - b. The order comes into force on 09-11-2018.
 - c. The figures and word "20 per cent", wherever they occur in the PPP-2012 shall be substituted by the figures and word "25 per cent".
 - d. Percentage procurement from MSEs shall be at least 25% of the total procurement, which includes minimum 4% and 3% procurement from MSEs owned by SC/ST and women entrepreneurs respectively.
 - e. The Central Government Ministries or Departments or Public Sector Undertakings shall continue to procure 358 items from MSEs, which have been reserved for exclusive purchase from them (list of 358 items shall be as per the PPP for MSEs Order, 2012).
- (2) **Bid Conditions for Micro & Small Enterprises (MSEs):**
 - I. The bidders participating as Micro/Small Enterprises (MSE) shall submit an Undertaking in the prescribed format (**Please refer Annexures**) given in Bid Document declaring the status of their firm under the provisions of Micro and Small Enterprises along with a copy of the document/ certificate issued by any of the Authority mentioned below:
 - a. District Industries Centers
 - b. Khadi and Village Industries Commission
 - c. Khadi and Village Industries Board
 - d. Coir Board
 - e. National Small Industries Corporation (NSIC)
 - f. Directorate of Handicrafts and Handloom
 - g. MSEs registered under Udyam Registration (UR) portal.
 - h. Any other Body specified by Ministry of Micro, Small and Medium Enterprises.

The registration certificate submitted by MSEs issued from any one of the above agencies must be valid as on close date of the tender. The successful bidder should ensure that the same is valid till the end of the contract period. The MSEs who have applied for registration or renewal of registration with any of the above agencies/bodies, but have not obtained the valid certificate as on close date of the tender, are not eligible for exemption/preference.

The MSEs bidder/ entrepreneurs claiming to belong to Scheduled Caste (SC) or Scheduled Tribe (ST) category, shall furnish necessary SC/ST certificate issued by Competent Authority in support of their cast/tribe in addition to certificate of registration with any one of the agencies mentioned above at serial B(I). MSE owned by SC/ST shall satisfy any of the following:

- (a) In case of proprietary MSE, proprietor(s) shall be SC /ST.
- (b) In case of partnership MSE, the SC/ST partners shall be holding at least 51% shares in the enterprise.
- (c) In case of Private Limited Companies, at least 51% share shall be held by SC/ST promoters.

MSEs bidders are exempted from payment of BID FEES and EARNEST MONEY DEPOSIT (EMD).

(3) PRICE PREFERENCE TO MICRO AND SMALL ENTERPRISES.

Complying with the Public Procurement Policy for Micro and Small Enterprises (MSEs) Amendment Order, 2018, the following provisions shall prevail for award of 25 % of the total quantity of the tender to the participating Micro and Small Enterprises subject to meeting terms and conditions stated in the bid document including but not limiting to Qualification criteria.

- (i) Where the tendered quantity can be split, MSEs quoting a price within a price band of L1 + 15 %age shall be allowed to supply up to 25 percent of total tendered quantity at L1 price provided they accept L1 price.
- (ii) In case the tendered quantity cannot be split, MSE shall be allowed to supply total tendered quantity at L1 price provided their quoted price is within a price band of L1 + 15 %age.
- (iii) In case of more than one such MSEs are in the price band of L1 + 15%age, who are willing to execute the work at L1 price, the work may be shared proportionately.
- (iii) Out of the 25 (twenty five) percent target for MSEs, 4(four) percent shall be earmarked for procurement from micro and small enterprises owned by Scheduled Caste & Scheduled Tribe entrepreneurs and 3(three) percent from MSEs owned by women within the 25% target. In the event of failure of such MSEs to participate in the tender process or meet the tender requirements and L1 price, the said 4 (four) percent & 3 (three) percent sub-target so earmarked shall be met from other MSEs.

(4) CONTRACTORS's OBLIGATION FOR MANDATORY PROCUREMENT FROM MICRO AND SMALL ENTERPRISES:

Public Procurement Policy for Micro and Small Enterprises (MSEs)-2012 has reserved 358 items (**Please refer Annexures** for items as listed in the Public Procurement Policy for MSEs Order dated 23.03.2012) to be procured exclusively from MSEs. Accordingly, the bidder/ bidders to whom this contract

shall be awarded shall procure the required items included in the list of 358 items exclusively from MSEs.

The bidder/ bidders to whom the contract shall be awarded shall procure minimum of 25% of the required goods/ services from MSEs including 4% from MSEs owned by SC/ST entrepreneurs and 3% from MSEs owned by women. In the event of failure of such MSEs owned by SC/ST entrepreneurs and women, 4% & 3% sub-target for procurement from MSEs owned by SC/ST entrepreneurs & women shall be met from other MSEs.

A compliance report to the above attaching documentary evidence shall be submitted to the Engineer-in-Charge quarterly. If such mandatory procurement could not be complied with, reason for the same shall be indicated in the report.

(5) Relaxation of Norms for Startups and Micro & Small Enterprises (MSEs) on Prior Experience - Prior Turnover Criteria:

(a) Relaxation of Norms for Micro & Small Enterprises (MSEs) on Prior Experience - Prior Turnover Criteria:

In line with Policy Circular No. 1(2) (1)/2016-MA Dated 10th March, 2016 of the Ministry of Micro, Small & Medium Enterprises on “Relaxation of Norms for Startups and Micro & Small Enterprises in Public Procurement on Prior Experience and Prior Turnover Criteria”, the Criteria of Prior Turnover and Prior Experience are relaxed for MSEs, subject to meeting of quality and technical specifications.

However, in case of circumstances like procurement of items related to public safety, health, critical security operations and equipments etc., where purchaser may prefer the vendors to have prior experience rather than giving orders to new entities, for such procurements, wherever adequate justification exists, the purchaser may not relax the criteria of prior experience/ turnover for the MSEs.

The MSE bidders shall be offered relaxation from Prior Experience Criteria, provided the bidder submits document such as MSE registration certificate to prove bidder's registration in trade similar to the tendered job.

Similarly, MSE bidders shall be offered relaxation from Prior Turnover Criteria, provided the bidder submits document such as MSE registration certificate.

(b) Relaxation of Norms for Startups on Prior Experience - Prior Turnover Criteria:

In line with DPE O.M. No. DPE/7(4)/2007-Fin Dated 08-11-2016 on “Relaxation of Norms for Startups Medium Enterprises in Public Procurement Regarding Prior Experience - Prior Turnover criteria” and as per Section 2.1(5) of “Action Plan for Startup India” announced by the Government of India in Jan 2016, the Criteria of Prior Turnover and Prior Experience are exempted for the Startups, subject to meeting of quality and technical specifications.

However, in case of circumstances like procurement of items related to public safety, health, critical security operations and equipments etc., where purchaser may prefer the vendors to have prior experience rather than giving orders to new entities, for such procurements, wherever

adequate justification exists, the purchaser may not relax the criteria of prior experience/ turnover for the Startups.

The Startup bidders shall be offered exemption from Prior Experience Criteria, provided the bidder submits document such as Startup recognition certificate to prove bidder's recognition in trade similar to the tendered job.

Similarly, Startup bidders shall be offered exemption from Prior Turnover Criteria, provided the bidder submits document such as Startup recognition certificate.

The definition of "Startups" is as per the Gazette Notification of the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) dated 17th February 2016 and all other subsequent directives/guidelines /amendments thereof. The Startup Enterprises shall submit startup India recognition certificate issued by Department for Promotion of Industry and Internal Trade (DPIIT) of Ministry of Commerce and Industry, Government of India in order to be considered for relaxation in prior experience and prior turn over.

The Bidders participating as **Startups** shall submit an undertaking in the prescribed format (**Please refer Annexures**) given in bid document regarding applicability of startups under "Startup India" initiative.

[Note: *Following shall be referred as a guidance for stipulating the above Bid conditions in the NIB/Bid document, which shall not be reproduced in the NIB/Bid document:*

1. *The respective tendering authority while framing the Qualifying Requirements for the works/goods/services to be tendered, has to specifically mention in the NIB/ Bid documents whether the above Clause on relaxation/ exemption of norms of Prior Experience & Prior Turnover Criteria for MSEs/ Startups shall be applicable for that particular tender keeping in view the procurement of items related to public safety, health, critical security operations and equipments etc., so that no complexity arises to the prospective bidders and in the evaluation of bids.*
2. *In case relaxation of above norms for MSEs is made applicable to a tender, the respective tendering authority while framing the Qualifying Requirements for the works/goods/services to be tendered, has to specify in the NIB/Bid document the extent of relaxation to be made against Prior Experience & Prior Turnover criteria for MSEs considering the nature/type of procurements along with any other relevant aspects, as there is no criteria on the extent of relaxation is specified in the said Policy Circular/DPE O.M.]*

(6) Conditions for Startups bidders:

The Startups bidders are exempted from payment of Earnest Money Deposit (EMD).

The definition of "Startups" is as per the Gazette Notification of the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) dated 17th February 2016 and all other subsequent directives/guidelines /amendments thereof. The Startup Enterprises shall submit startup India recognition certificate issued by Department for Promotion of Industry and Internal Trade (DPIIT) of Ministry of Commerce and Industry, Government of India.

(7) TRADE RECEIVABLE DISCOUNTING SYSTEM (TReDS):

It may be noted that Government of India has implemented Trade Receivable Discounting System (TReDS) to address the challenges faced by MSMEs in delayed payments (after receipt/acceptance of material/services) from corporate and other buyers, including Government Departments and Public Sector Undertakings (PSUs) leading to shortfall of working capital.

TReDS is an online electronic institutional mechanism/ platform for facilitating the financing of trade receivables of MSMEs from corporate and other buyers, including Government Departments and Public Sector Undertakings (PSUs), through multiple financiers. NEEPCO has registered on the following TReDS platform:

a) "Invoicemart" of 'A. TREDs Ltd.', Mumbai

MSME vendors can avail the TReDS facility, if they want to by registering on the above mentioned TReDS platform, for which MSEM vendors can contact at the following address of "Invoicemart":

Shri Mithilesh Jha, Email: mithilesh.jha@invoicemart.com, Ph: +91 9836953636.

- (8) The bidders participating as Micro & Small Enterprises (MSE) shall declare Udyam Registration (UR) Number on Central Public Procurement Portal (CPPP), failing which such bidders shall be treated as non-MSE bidders and shall not be able to avail the benefits available to MSEs as contained in Public Procurement Policy for MSEs Order, 2012 issued by Ministry of Micro, Small & Medium Enterprises, for tenders invited electronically through CPPP.

6.2.2 Validity of Bids and Bid Security

- (i) Bids shall be generally valid for a period (normally 6 months or more than that in exceptional cases) sufficient to enable the Employer to award the contract within that period.
- (ii) The bid security /EMD shall be in the amount and form specified in the bidding documents and shall generally be valid for a period of 45 (forty five) days beyond the final bid validity period.
- (iii) Release of Bid Security/EMD:
 - a) The Bid Security/EMD of those Bidders, who do not qualify in Techno-Commercial evaluation, shall be returned immediately after approval of Techno-Commercially evaluation. It should be returned within 30(thirty) days of declaration of result of first stage i.e. Techno-commercial evaluation.
 - b) The Bid Security/EMD of the Bidders other than L-1 Bidder, will be returned immediately after issue of Letter of Intent (LOI) to the successful Bidder.
- (iv) The Bid Security/EMD of the successful bidder (L-1 Bidder) will be discharged when the bidder has furnished the required Initial Security Deposit/ CPG and after acceptance of the ISD/ CPG, as specified in the Conditions of Contract and has signed the Contract Agreement.
- (v) Forfeiture of Bid Security/EMD: The Bid Security/EMD may be forfeited;
 - a) if the bidder withdraws his bid after the bid opening during the period of bid validity and extension thereof.

- b) if the Bidder engages in corrupt, fraudulent, collusive, coercive practices as defined in Clause 5.2(ii) hereunder, during bidding process; or
- c) if the bidder does not accept the correction of the bid price, pursuant to Clause-4.4.3 (iii) hereunder; or
- d) in the case of successful bidder, if the bidder fails within the specified time limit to
 - sign the Contract Agreement; or
 - furnish the required Initial Security Deposit

6.2.3 Clarity of Bidding Documents/Specifications

- (i) The tests, standards, and methods to be employed to judge the conformity of goods, equipments and services as delivered, or works as performed, with the specifications, shall be defined.
- (ii) The factors viz guaranteed losses which will be taken into account in evaluating bids apart from the prices shall be specified. Wherever, bids based on alternative designs, materials, completion schedules, payment terms, etc. are permitted, conditions for their acceptability and the method of their evaluation shall be expressly stated.

6.2.4 Standards

- (i) Standards and specifications mentioned in Technical Specifications/ Employer's Requirements shall promote the broadest possible competition, while assuring the critical performance or other requirements for the goods and/or works under procurement.
- (ii) As far as possible, the Nationally/ internationally accepted standards shall be specified with which the equipment or materials or workmanship shall comply.

6.2.5 Use of Brand Names

- (i) The description of the subject matter of procurement to the extent practicable should:
 - 1. Be objective, functional, generic and measurable and specify technical, qualitative and performance characteristics:
 - 2. Not indicate a requirement for a particular trade mark, trade name or brand.
- (ii) If it is necessary to quote a brand name or catalog number of a particular manufacturer to clarify an otherwise incomplete specification, the words "or equivalent" shall be added after such reference. The specification shall permit the acceptance of offers for goods which have similar characteristics and which provide performance at least substantially equivalent to those specified.

6.2.6 Pricing

- (i) Bids for goods shall be invited on the basis of CIP (port of disembarkation or entry border point)/CIF, Custom Duty, Port Charges, Cost of inland transportation and insurance to the place of destination, for all goods manufactured abroad and to be imported into India, offered by a foreign bidder. Bidders shall be allowed to arrange for ocean and other transportation and related insurance themselves subject to relevant guidelines, if any, that have been issued by Government of India through Ministry of Surface Transport as applicable.

- (ii) Bids for Goods that are manufactured in India or sourced from India (Bought out items), offered by Indian as well as Foreign bidder, shall be invited on the basis of EXW (ex works, ex factory, or off-the-shelf) and cost of inland transportation and insurance to the place of destination. The EXW price of such goods shall be inclusive of all taxes and duties as may be applicable. The prices shall be exclusive of Excise Duty and sales tax (CST/ VAT), only in case of Goods manufactured in India by the bidder himself (i.e. Direct Transaction).
- (iii) Bids for finished imported goods, offered by Indian bidder, shall be invited on the basis of EXW (off-the-shelf) and cost of inland transportation and insurance to the place of destination. The prices shall be inclusive of all taxes and duties.
- (iv) No High Sea Sale shall be permitted.
- (v) The Prices for installation, commissioning, or other similar services including civil works shall include all duties, taxes, and other levies, unless otherwise specified in the bidding documents.
- (vi) The quoted prices shall be excluding Entry Tax/ Octroi on goods, if so specified.

6.2.7

Price Adjustment

- (i) Bidding documents shall state whether (a) bid prices will be fixed or (b) price adjustments will be made to reflect any changes (upwards or downwards) in major cost components of the contract, such as labor, equipment, materials, and fuel (variable basis).
- (ii) Price adjustment provisions are usually not necessary in contracts involving delivery of goods or completion of works upto 18 (eighteen) months, but shall be included in contracts which extend beyond 18 (eighteen) months whenever formula and published indices for the same are available. Further, in case of high value civil and hydro-mechanical works with substantial cement and steel component, the prices for construction/erection shall also be invited on variable basis irrespective of completion schedule.

Short term contracts where the delivery period does not extend beyond 18 (Eighteen) months should normally be concluded with a firm price by inviting tenders accordingly. However, even for shorter deliveries, the PVC may be stipulated for items with inputs (raw material, labour etc.), prone to short term price volatility – especially for critical or high value items – otherwise there is a possibility of the contract failing or the Corporation having to pay a higher price if prices fall. For high value (more than Rupees Three Crore) tenders with deliveries longer than 18(Eighteen) months, PVC may be provided to protect the purchaser's interests also.

- (iii) To avoid speculation due to price volatility in globally connected economy, in general the price adjustment shall not be subject to any limit as percentage of the quoted prices.
- (iv) Refer Volume-III and IV for guidelines on formulae for price adjustment.
- (v) Care should be exercised in contracts providing for price variation to finalise the price before final payment is made, after obtaining data and documents in support of claims for escalation, if any. Where no such claims are submitted by the suppliers, an examination of whether there has been a downward trend in the cost, which the contractor may not bring out, is required. At any rate, an undertaking should be obtained from the contractor to the following effect in

case it becomes necessary to make the final payment before he has submitted the required data/documents related to the PVC;

“It is certified that there has been no decrease in the price of price variation indices and, in the event of any decrease of such indices during the currency of this contract, we shall promptly notify this to the purchaser and offer the requisite reduction in the contract rate”.

- (vi) For Consultancy contract in case the duration of the contract is expected to exceed 18 (eighteen) months for a time-based contract or an Indefinite delivery contract, a price adjustment provision for the remuneration rate should be included in the contract based on the Consumer Price Index in the country. Lump-sum contracts shall not generally be subject to price adjustment except for small value multi-year contracts (for example, for auditors). Short-term contracts where the delivery period does not extend beyond 18 (eighteen) months should normally be concluded with a firm and price fixed by inviting tenders accordingly. However, even for shorter deliveries, the price adjustment [or Price Variation Clause (PVC)] may be stipulated for items with inputs (raw material, man power, etc.), prone to short-term price volatility - especially for critical or high value services – otherwise there is a possibility of the contract ailing or the purchaser having to pay a higher price if prices fall.

6.2.8 Currency of Bid

- (i) **For Global Competitive Bidding, the Bidding documents shall state that:**
 - (a) The foreign bidder for goods to be supplied from abroad and type tests for such goods may express the bid price in any convertible currency but shall not include more than three (3) foreign currencies. The foreign bidder for goods and services to be supplied from abroad and type tests, for such goods may express the bid price in not more than 1 (one) currency which may be the currency of the country of the bidder or USD (\$).
 - (b) The foreign bidder, for goods to be supplied from India and type tests for such goods, as well as for other services and civil works, shall be required to express its prices in Indian Rupees along with the requirements for payments in up to three foreign currencies of their choice for expected inputs from abroad, expressed either in amount or as a percentage of part of the bid price (together with the exchange rates used in such calculations). If no exchange rate is indicated, the exchange rate shall be the same as applicable for the purpose of comparing bids.
 - (c) The Indian bidder, for goods to be supplied from India and type tests for such goods, as well as for other services and civil works, shall be required to express its prices in Indian Rupees. However for finished imported goods offered by such bidder and type test for such goods to be conducted abroad, the Indian bidder may quote his prices in up to three foreign currencies of its choice, for which payment shall be made in Indian Rupees based on SBI TT Buying Card Rate prevailing at the time of payment.
- (ii) **For Domestic Competitive Bidding, the Bidding documents shall state that:**

- (a) All the bidders shall be required to quote the prices only in Indian Rupees.

6.2.9 Currency of Payment

- (i) Payment of the contract price shall be made in the currency or currencies specified in the Contract except otherwise stated in the contract.
- (ii) When the bid price is required to be stated in the local currency but the foreign bidder has requested payment in foreign currencies expressed either as absolute amount or as a percentage/part of the bid price, the exchange rates to be used for purposes of payments shall be the State Bank of India (SBI) TT Buying Card Rate of Exchange, so as to ensure that the value of the foreign currency portions of the bid is maintained without any loss or gain.
- (iii) When the bid price is stated in foreign currency by the Indian bidder for finished Imported Goods but payment is to be made in Indian Rupees, the exchange rates to be used for purposes of payments shall be State Bank of India (SBI) TT Buying Card Rate of Exchange.

6.2.10 Terms and Methods of Payment

- (i) Normally payment through letters of credit shall be made against supply of Goods. However, if so requested by the Bidder/ Contractor either in the bid or during contract execution, there shall be no objection to release the payment as per the Contract directly to the Contractor.
- (ii) Contract may have provisions for suitable interest bearing Advances.

6.2.11 Interest on Advance

The interest on advance shall be 200 bps above the Base Rate of State Bank of India prevailing as on the date of drawal of advance.

6.2.12 Performance Security and Security Deposit (SD)/Retention Money

- (i) The Contract Performance Guarantee shall be normally 10% of the Contract Price. This amount may however vary, depending on the type of security furnished and on the nature and magnitude of the works or facilities.
- (ii) The amount CPG has been reduced to 3(three percent) till 31.03.2023 on account of the COVID-19 pandemic, that caused slowdown in the economy. The Performance Security is to be furnished by a specified date (generally 14(fourteen) days after notification of the award) and it should remain valid for a period of 60(sixty) days beyond the date of completion of all contractual obligations of the supplier, including warranty obligations.
- (iii) Contracts for works/ civil/ Hydro mechanical works may alternatively provide for a percentage of each periodic payment to be held as retention money until final acceptance. Contractors may be allowed to replace retention money with an equivalent security in the form of a Bank security or guarantee after provisional acceptance.
- (iv) The retention money for supply portion of Supply-cum-Installation/Erection contract may, upon the request of the Contractor, be released pro rata against Bank Guarantee of equivalent amount subject to the condition that the corresponding supplies have been erected. The Bank Guarantee in such cases shall be equal to the amount requested to be released and shall be valid initially till 60 days beyond the date of expiry of DLP and shall be extended from time to time, as may be required.

6.2.13 Liquidated Damages (LD)

Provisions for liquidated damages for delay, in an appropriate amount (normally @ 0.5% of contract sum per week of delay subject to maximum of 10% of the Contract Price) shall be provided.

6.2.14 Splitting of Supply Contracts

Suitable provision of splitting of supply contract under a single package shall be incorporated in the bidding documents, wherever required.

Employer/Owner may also make provision for splitting its requirement at a predetermined percentage specified in the Bidding Documents amongst two or more bidders subject to matching of the lowest price. However, in case bidders other than L1 does not match the lowest price, then such requirement shall be awarded to the L1 bidder.

Chapter 7

7.0 **METHODS OF PROCUREMENT:**

[Responsibility Centre: Contracts Dept. in consultation with Indenting Dept./ D&E Department as the case may be.

Corporate Communications and PR Dept. shall be the Responsible Centre for publishing of NIT]

- 7.1 Suitable procurement methods, to be indicated in the Package List/ procurement proposal, matching with the need of procurement and circumstances thereof shall be employed as per guidelines indicated herein below.

7.2 **Open Competitive Bidding**

- 7.2.1 As a matter of general policy, Open Competitive Bidding (OCB) shall be the preferred mode of bidding.
- 7.2.2 While resorting to OCB, domestically manufactured goods and domestic contractors shall be encouraged.
- 7.2.3 The invitation for OCB shall be adequately publicized.

In case of consultancy services, after finalizing the types of consultant / service provider required to be engaged from the following, the types of contract and system of selection of consultant/service provider is finalized:

a) **Consortium of consultant/service providers**

In large and complex assignments consultants/ service providers may associate with each other to form a consortium to complement their respective areas of expertise, to increase the technical responsiveness of their proposal, and make larger pools of experts available or for other reasons. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment. The consortium may take the form of a Joint Venture (JV) or a sub consultancy. In case of a JV, all members of the JV shall sign the contract and shall be jointly and severally liable for the entire assignment. After the short list is finalised, and the Request for Proposal (RfP) is issued, any association in the form of a JV or sub consultancy among the short-listed firms shall be permissible in accordance with provisions stated in the RfP. Under such circumstance, one of the shortlisted consultants/ service providers must become the lead member of the consortium. The Procuring Entity only deals with the lead member of consortiums for all the purposes. Bid documents should clearly specify whether JVs are allowed to bid (in case of complex and large assignments, say above certain values (say - Rs. 5 (Rupees five) crore). Maximum number of partners in JV shall be limited (say – three). In case JVs are permitted to bid, it should be clarified what qualifications are to be collectively (clubbed together) met by the JV partners (say experience of particular consultancy, Financial Turnover etc) and what each partner has to individually and separately meet (financial soundness). In this case it should also be specified that each partner should meet at least 25% (and the lead partner at least 50%) out of the qualifying limit in case of experience of particular consultancy and financial turnover, if any.

Conflicting Association: A firm shall submit only one proposal, either individually or as a JV partner in another proposal. If a firm, including a JV

partner, submits or participates in more than one proposal, all such proposals shall be disqualified. This does not, however, preclude a firm from participating as a sub-consultant or an individual consultant to participate as a team member in more than one proposal when circumstances justify but only if permitted by the RfP document.

b) **Consultancy or Service Providing Firms:**

The main source of consultants and service providers is Consultancy or Service providing firms of diverse specializations that provide teams to Clients.

c) **Individual consultants/ service providers:**

Individual consultants or service providers are recruited for similar activities as Consultancy/Service providing firms when a full team is not considered necessary.

d) **Specialized Agencies and Institutions**

Specialized agencies or institutions (including Government/ Semi-Government agencies, universities and professional institutions) may also from time to time be recruited to provide Consultancy/ other services.

e) **Non-governmental Organizations (NGO):**

There may be distinct advantage in use of Nongovernmental organizations (NGOs) in Projects which emphasize experience in community participation and in-depth local knowledge – for example, Projects related to Corporate Social Responsibility (CSR).

f) **Retired Government Servant:**

The consulting services do not include direct engagement of retired Government servants. They should not be engaged against regular vacant posts as consultant under this rule. Retired Government servants can be engaged only for the specific task and for specific duration as consultant. They should be assigned clear output related goals.

Mostly the following types of Contracts are used:

- (a) Lump sum (Firm Fixed Price) contract;
- (b) Time based (Retainer-ship) contracts;
- (c) Percentage (Success Fee) contract;
- (d) Retainer-ship cum Success fee based contract;
- (e) Indefinite delivery contract.

System of Selection:

- a. Price based System – Least Cost Method (LCS)
- b. Quality and Cost Based Selection (QCBS)
- c. Direct Selection: Single Source Selection (SSS) – Applicable under special circumstances

Note:

- i) Ref Chapter 2 and Chapter 3, Manual for Procurement of Consultancy & Other Services issued by Govt. of India, Ministry of Finance, Department of Expenditure (Updated June, 2022).

- ii) Refer Chapter 7 of the above manual for Special Types of Engagement for Consultancy & other services:

7.2.4 For selection of Consultants by Competitive Process, Chapter 6 of the Manual for Procurement of Consultancy & Other Services issued by Govt. of India, Ministry of Finance, Department of Expenditure (Updated June, 2022) may be referred to.

7.3 Limited Competitive Bidding

7.3.1 Under Limited Competitive Bidding (LCB), the invitation to bid referred to as Limited Tender Invitation (LTI) shall be extended simultaneously to selected firms only.

7.3.2 LCB shall be appropriate wherein:

- (i) The need for procurement is urgent for which the Indenting Department shall place on record in writing, the justification for urgency and the time anticipated to be involved to examine and evaluate bids and assess capacity and capability of the bidders may not be commensurate with the need for early requirement of the Department ordering the procurement.
- (ii) There are sufficient reasons, to be placed on record in writing by the Indenting Department, that it will not be in the interest of NEEPCO to undertake the Procurement through DCB, particularly in case of specialized and critical nature of procurement.
- (iii) Limited tender enquiries are those issued for requirements which do not fall under open tender category or are required due to urgency or for specialised jobs
- (iv) The sources of Procurement are definitely known and possibility of additional source(s) is remote.

7.3.3 Under LCB, bids shall be invited atleast from 5 bidders. For this, a list of acceptable suppliers/ contractors shall be maintained by the Indenting Department based on past experience/ current offer and advertisement/EoI etc. issued from time to time on regular basis at least once every year. Such advertisement/EoI may be published through website besides the press.

The number and names of parties selected for issue of limited tender enquiry shall be approved by the next higher authority. D(T) will be self approving authority.

If less than 3 valid quotations are received against limited tender then the same will require the approval of next higher authority.

If only one valid quotation is received then it will be regulated as award of work without call of tender

7.4 Single Source Procurement

7.4.1 Under Single Source Procurement, the Procurement shall be undertaken from a selected source only, for which the Indenting Department shall place on record in writing the justification.

7.4.2 Single Source Procurement shall be considered appropriate in following cases:

- (i) Compatibility with existing equipment / structure/work; or
- (ii) The required item is proprietary and obtainable only from one source; or
- (iii) The procurement of certain goods/services/works from a particular supplier is essential to achieve the required performance or functional guarantee of an equipment or plant or facility; or

- (iv) In exceptional cases, such as, but not limited to, in response to natural disasters and emergency situations; or
- (v) Procurement in case of source standardization, or
- (vi) Finalisation of consultant firm/ institute of repute e.g. IITs, IISC etc. for specialized consultancy.

7.4.3 Additional Procurement, unrelated to the facilities for which contract has been finalized earlier through OCB, based on the terms , conditions and rates of the said contract with delivery/ time schedule to meet the requirement of the additional Procurement and price adjustment as per the same, shall be deemed to be Single Source Procurement.

7.4.4 The quotation obtained for Single Source Procurement for the purpose of estimating the cost may also be considered as a basis for finalizing the award after requisite legal and other tie-ups with the firm/vendor.

7.5 Sundry Procurement/Procurement through Shopping/ Request for quotations and spot purchase

7.5.1 Sundry Procurement/Procurement through Shopping/ Request for quotations and spot purchase shall normally be resorted to procure a subject matter of procurement of the low value, office consumables, off-the shelf branded items/ consumer durables, with differentiation in features and quality, but serving the same purpose, for:

- (i) Procurement of readily available goods that are not specially produced to the particular description and for which there is an established market; or
- (vii) Services that are not specially provided to the particular description and are readily available in the market; or
- (viii) Procurement of any goods or works or services which are urgently required for maintenance or emergency repairs;

7.5.2 As a matter of general guidelines, spot quotations shall be collected from at least three parties. In case the quotations are not forthcoming, order may be placed by Competent Authority/Committee on the party who, in the opinion of the committee has indicated most reasonable price.

7.5.3 Proper record has to be maintained for the material purchased in the above manner.

7.5.4 In case where the items are possible to be procured through e-commerce portal, such procurement shall be carried out through these portals as a matter of general policy.

7.6 Framework Agreements/ Rate Contracts

7.6.1 Rate Contracts may be entered into in the following cases:

- (i) Commonly use goods or services needed on recurring basis.
- (ii) Goods or services for which prices are likely to be stable or where Rate Contracts could be finalized with provision of price variation to account for variation in the prices of raw material, labour etc.
- (iii) Good or services for which Rate Contract is convenient to operate.

7.6.2 Rate contracts may also be concluded for Office Equipment includes refills, spares etc. for the same and available off-the-shelf where the feature of such products/goods differ significantly among the products of different manufacturers and

even between different modules of same manufacturer (differentiated products) and where equitable comparison of prices for such products is not feasible. Such Rate Contracts are to be concluded on discount on Net Dealer Price (NDP) basis.

7.6.3 Period of Rate Contract

The period of Rate Contract should normally be one year for stable technology products. However, in special cases, shorter or longer period may be considered. As far as possible, termination period of rate contracts should be fixed in such a way as to ensure that budgetary levies would not affect the price and thereby frustrate the contracts. Attempts should also be made to suitably stagger the period of rate contracts throughout the year.

7.6.4 Criteria for award of Rate Contract

- (a) Rate Contracts shall be awarded to the firms who are empanelled through a process of vendor empanelment for the goods/services in question and fulfill the laid down eligibility and qualification criteria. Suitable stipulations are to be incorporated in the Bidding documents to this effect. In respect of new items being brought on rate contract for the first time where there is no empanelled vendors (for the subject items), the requirement of empanelment can be relaxed with the approval of competent authority. The award of such rate contracts will, however, be subject to the suppliers' satisfactory technical and financial capability.
- (b) Some of the bidders (who are otherwise empanelled for the subject goods) may also be holding current rate contracts and/or held past rate contracts for the required goods. Their performance against such earlier/current rate contracts shall be critically reviewed before they are considered for award of new rate contracts.

7.6.5 Special Conditions applicable for Rate Contract

Some such important special conditions of rate contract are given below:

- i) In the Schedule of Requirement, no quantity is mentioned; only the anticipated drawal may be mentioned without any commitment.
- ii) NEEPCO reserves the right to conclude more than one rate contract for the same item.
- iii) NEEPCO as well as the Supplier may withdraw the rate contract for by serving suitable notice to each other. The prescribed notice period shall be generally thirty days.
- iv) NEEPCO has the option to renegotiate the price with the rate contract holders.
- v) Usually, the terms of delivery in rate contracts are FOR destination site basis.
- vi) Supply orders, incorporating definite quantity of goods to be supplied along with all other required conditions following the rate contract terms, are to be issued for obtaining supplies through the rate contract.
- vii) NEEPCO shall be entitled to place supply orders up to the last day of the validity of the rate contract and, though supplies against such supply orders will be effected beyond the validity period of the rate contract, all such supplies will be guided by the terms & conditions of the rate contract.
- viii) The rate contract will be guided by "Fall Clause" (as described later in this chapter).

7.6.6 Parallel Rate Contracts

In case it is observed that a single supplier does not have enough capacity to cater to the entire demand of an item, the rate contract issuing authority may enter into more than one rate contract with different suppliers for the same item. Such rate contracts are known as Parallel Rate Contracts.

7.6.7 Conclusion of Rate Contracts including Parallel Rate Contracts

In the normal course, the rate contract is to be awarded to the lowest responsive bidder (L1). However, depending on the anticipated demand of the item, location of the users, capacity of the responsive bidders, reasonableness of the prices quoted by the responsive bidders, etc. it may become necessary to award parallel rate contracts also. For this purpose, a reasonable price band above L1's price is to be decided and parallel rate contracts awarded to the responsive bidders falling within the price band. For the sake of transparency and to avoid any criticism, all such rate contracts are to be issued simultaneously.

7.6.8 Price Negotiation/Counter-Offer

- (i) Normally, there should be no price negotiation. Negotiations should be a rare exception rather than the rule and may be resorted to only in exceptional circumstances. If it is decided to hold negotiations for reduction of prices, they should be held only with the L1 bidder, who is techno-commercially responsive for the supply of a bulk quantity and on whom the contract would have been placed but for the decision to negotiate. In no case, including where a cartel/pool rates are suspected, should negotiations be extended to those who had either not tendered originally or whose tender was rejected because of unresponsiveness of bid, unsatisfactory credentials, inadequacy of capacity or unworkable rates. The circumstances where negotiations may be considered could be:
 - a) Where the procurement is done on nomination basis.
 - b) Procurement is from single or limited sources;
 - c) Procurements where there is suspicion of cartel formation which should be recorded; and
 - d) Where the requirements are urgent and the delay in re-tendering for the entire requirement due to the unreasonableness of the quoted rates would jeopardize essential operations, maintenance and safety, negotiations with L1 bidder(s) may be done for bare minimum quantum of requirements. The balance bulk requirement should, however, be procured through a re-tender, following the normal tendering process.
- (ii) The decision whether to invite fresh tenders or to negotiate and with whom, would be made by the tender approving authority based on the recommendations made by the Tender Evaluation Committee. Convincing reasons must be recorded by the authority recommending negotiations. Competent Authority should exercise due diligence while accepting a tender or ordering negotiations or calling for a re-tender and a definite timeframe should be indicated.
- (iii) Normally all counter offers are considered negotiations by other means and the principles of negotiations should apply to such counter offers. For example, a counter offer to L1, in order to arrive at an acceptable rate, shall amount to a negotiation. However, any counter offer to L2, L3 and so on (at rates accepted by L1) in case of splitting of quantities shall not be deemed to be a negotiation.
- (iv) After the decision is taken to call a specific bidder for negotiation, the following procedure should be adopted:

- a) It must be understood that, if the period of validity of the original offer expires before the close of negotiations, the original offer will not be available for acceptance. **The period of validity of the original offer must, therefore, be extended, wherever necessary, before negotiations;**
- b) The bidder to be called for negotiations should be addressed so that the rates originally quoted by it shall remain open for acceptance in the event of failure of the contemplated negotiations.
In case of consultancy tenders, financial negotiations shall only be carried out if, due to negotiations, there is any change in the scope of work/ToR which has a financial bearing on the final prices or if the costs/cost elements quoted are not found to be reasonable. In such negotiations, the selected firm may also be asked to justify and demonstrate that the prices proposed in the contract are not out of line with the rates being charged by the consultant for other similar assignments. However, in no case such financial negotiation should result in an increase in the financial cost as originally quoted by the consultant and on which basis the consultant has been called for the negotiations. If the negotiations with the selected consultant fail, the Procuring Entity shall cancel the bidding procedure and re-invite the bids.
- c) The name of the successful bidder along with details of costs, and so on, shall be posted on the departmental website after award of work to the successful bidder has been made and communicated to him in writing.

7.6.9 Cartel Formation/ Pool Rates

Sometimes a group of bidders quote identical rates against a rate contract tender. Such Pool/Cartel formation is against the basic principle of competitive bidding and defeats the very purpose of open and competitive tendering system. Such practices should be severely discouraged with strong measures. Suitable administrative actions like rejecting the offers, reporting the matter to Registrar of Companies, MRTP Commission, National Small Industries Corporation etc. should be initiated against such firms, on case to case basis, as decided by the competent authority. Ministries/Departments may also bring such unhealthy practice to the notice of the concerned trade associations like FICCI, ASOCHAM, NSIC, etc. requesting them, inter alia, to take suitable strong actions against such firms.

7.6.10 Fall Clause

Fall clause is a price safety mechanism in rate contracts. The fall clause provides that if the rate contract holder reduces its price or sells or even offers to sell the rate contracted goods following conditions of sale similar to those of the rate contract, at a price lower than the rate contract price, to any person or organization during the currency of the rate contract, the rate contract price will be automatically reduced with effect from the date for all the subsequent supplies under the rate contract and the rate contract amended accordingly. Other parallel rate contract holders, if any, are also to be given opportunity to reduce their price as well, by notifying the reduced price to them and giving them 15 (fifteen) days time to intimate their revised prices, if they so desire, in sealed cover to be opened in public on the specified date and time and further action taken as per standard practice.

On many occasions, the parallel rate contract holders attempt to grab more offers by unethical means by announcing reduction of their price (after getting the rate contract) under the guise of Fall Clause. This situation is also to be dealt with in similar manner as mentioned in the preceding paragraph.

It is however, very much necessary that NEEPCO keep special watch on the performance of such rate contract holder who reduce their prices on one pretext or other. If their performances are not up to the mark, appropriately severe action should be taken against them including de-empaneling them, suspending business deals with them, etc.

7.6.11 Performance Security

Depending on the anticipated overall drawal against a rate contract and, also, anticipated number of parallel rate contracts to be issued for an item, NEEPCO shall obtain performance security of reasonable amount from the rate contract holders. A suitable clause to this effect is to be incorporated in the Bidding documents.

7.6.12 Renewal of Rate Contracts

It should be ensured that new rate contracts are made operative right after the expiry of existing rate contracts without any gap for all rate-contracted items. In case, however, it is not possible to conclude new rate contracts due to some special reasons, timely steps are to be taken to extend the existing rate contracts with same terms, conditions etc. for a suitable period, with the consent of the rate contract holders. Rate contracts of the firms, who do not agree to such extension are to be left out.

Period of such extension should generally not be more than three months. Also, while extending the existing rate contracts, it shall be ensured that the price trend is not lower.

7.6.13 Placement of Supply Orders

Supplies are to be obtained against a rate contract by placing on the rate contracted firm supply order containing the quantity of the goods to be supplied and incorporating the prices and other relevant terms and conditions of the rate contract-

A supply order should generally contain the following important details:

- (a) Rate Contract No. and date.
- (b) Quantity. (where there is more than one consignee, the quantity to be dispatched to each consignee is to be indicated).
- (c) Price.
- (d) Date of delivery by which supplies are required.
(In the supply order, a definite delivery date based on the delivery period stipulated in the rate contract is to be provided).
- (e) Designation and address of the paying authority to whom the bills are to be raised by the supplier.

Copies of supply order are to be endorsed to all concerned.

7.7 Mode (Route) of Tendering/Bidding

7.7.1 Domestic Competitive Bidding (DCB)

7.7.1.1

DCB shall be the preferred bidding route. In DCB, the bidding shall be open to only Indian entities i.e. entities incorporated under the Company Act 1956 or 2013 of India, as the case may be, and Partnership/ Proprietorship firm owned by Indian Residents, barring those with whom business is banned by the Govt. of India/ NEEPCO.

Bidding for procurements using resources/ funds made available by multilateral/ bilateral/ other international financial institutions, shall be governed by the guidelines prescribed by such funding agencies.

7.7.2 International Competitive Bidding (ICB)

7.7.2.1 ICB shall be followed to seek participation of international bidders from all countries barring those with whom business is banned by the Govt of India/NEEPCO including on account of country specific restrictions imposed by Govt of India and in following situations:

- (i) Where Goods of required specifications/quality are not available within the country and alternatives available in the country are not suitable for the purpose;
- (ii) Non existence of a local branch of the global principal of the manufacturer/vendor/contractor
- (iii) Requirement for compliance to specific international standards in technical specifications; and
- (iv) Absence of sufficient number of competent domestic bidders likely to comply with the required technical specifications, and in case of suspected cartel formation among indigenous bidders.

Bidding for procurements using resources/ funds made available by multilateral/ bilateral/ other international financial institutions, shall be governed by the guidelines prescribed by such funding agencies.

7.7.2.2 No ICB/ Global Tender Enquiry (GTE) up to Rs. 200 crores shall be invited or such limit as may be prescribed by the Department of Expenditure from time to time. In exceptional cases where the Department feels that there are special reasons for inviting ICB/GTE, for tenders below such limit, it may record its detailed justification and seek prior approval for relaxation from the Competent Authority specified by the Department of Expenditure.

- a) The proposal for approval shall be submitted by Administrative Ministry with the concurrence of Financial Advisor and approval of Secretary concerned.
- b) The proposals shall be submitted along with duly filled format attached at Annexure-VII of C&P Manual Vol-I.

7.8 Methodology (Process) of Tendering/Bidding

7.8.1 Electronic Procurement (e-procurement)

7.8.1.1 Procurements shall be conducted through secured electronic mode referred to as 'e-procurement'/ 'e-bidding' to the extent possible as per the guidelines in place from time to time.

7.8.2 Single Stage Two Envelope Bidding Process

Offers submitted simultaneously in two separate envelopes:

1st Envelope- pertaining to techno-commercial part

2nd Envelope- Price part

The 1st Envelope shall be opened first and shall be evaluated to determine its responsiveness and competency in accordance with the provisions of the Bidding Documents. Subsequently, the 2nd Envelope of only responsive bidders, meeting the specified QR and assessed to have requisite capacity and capability shall be opened for further processing.

(Procedure for Single Stage Two Envelope Bidding Process is detailed in subsequent sections)

7.8.3 Single Stage Single Envelope Bidding Process

This process of bidding shall be followed under following circumstances or similar.

- for small value procurements not requiring high technical skill.
- for emergency procurement where time required for finalization of award through Single Stage Two Envelope Bidding Process may not be permissible.

(Procedure for Single Stage Single Envelope Bidding Process is detailed in subsequent sections)

7.8.4 Two Stage Bidding:

Two Stage Bidding shall be followed generally under following situations or similar.

- Procurement is for large complex facilities on single responsibility for design, supply, construction/installation and commissioning etc.
- Procurement is for single responsibility contract for supply and construction/installation of a facility or plant or work of a complex and special nature
- for complex information and communication technology or similar type that are subject to rapid technology advances.
- Procurement which is non-standard, non-regular or non-repetitive.
- where technical specification and commercial conditions cannot be firmed up/ finalized / are uncertain.

7.8.4.1 Under two stage bidding, first stage shall be conducted for pre -qualification of bidders. The Second Stage shall be conducted under Two Envelope procedure (Techno-commercial bid and Price Bid in separate sealed envelopes).

(Procedure for Two Stage Bidding Process is detailed in subsequent sections)

7.8.5 Electronic Reverse Auction (e-RA)

"Electronic reverse auction" is an online real-time purchasing technique to select the successful bid, which involves presentation by bidders of successively lowered bids during a scheduled period of time.

7.8.5.1 In e-RA, all those bidders who are ascertained to be Qualified & Responsive to the bidding conditions, unless otherwise restricted, shall be invited to participate in the e-RA process.

7.8.5.2 The e-RA shall be conducted for procurement where Bids (including Price Bids) have already been submitted and opened subject to guidelines as may be approved from time to time.

7.8.5.3 The Rank disclosed method of e-RA shall generally be adopted wherein the bidders can see their respective ranks but without access to information pertaining to prices of other bidders, except during the closing period for a specified time.

7.8.5.4 The minimum value of decrement in price for the e-RA shall be 0.5% or value deemed to be fit depending upon various aspects pertaining to procurement in question, of the L1 price evaluated on the basis of Price Bid e rounded off to nearest 'thousands' for estimated cost up to Rs. 1 Crore; nearest 'ten thousands' for more

than Rs 1 Crore but up to Rs. 10 Crore; and nearest 'lakhs' for more than Rs 10 Crore.

- 7.9 For the procurement particularly for vendor development, in new areas including those areas where it is difficult to anticipate probable bidders and level of participation, Expression of Interest (EOI) may be invited. In the EOI only the basic QR for Technical Experience and/or 'Financial Position' may be specified. Further, wherever considered appropriate, the Applicant complying with the QR may be allotted marks on different attributes and only those Applicant who obtain at least the minimum specified marks or those who are ranked higher (say top 6), be considered for inviting bids. However, the methodology for marking must be specified in the Request for EOI. Wherever the methodology for marking is not applicable, bids shall be invited from all the applicant complying with the basis QR. Award against bids invited under this process shall be considered as award against Open Tenders for all purposes.

For Shortlisting of qualified Consultants – Expression of Interest (EOI), Chapter 5 : Shortlisting Stage in Procurement of Consultancy Services, of the Manual for Procurement of Consultancy & Other Services (Updated June, 2022) issued by Govt. of India, Ministry of Finance, Department of Expenditure may be referred to.

- 7.10 For certain procurement viz transportation, cement/steel procurement, it may be considered appropriate to empanel contractors/ vendors by inviting Requests for Empanelment (RfE). In such case, only the basic QR be specified to prevent frivolous applications for empanelment. Further the maximum value of package for which bid would be invited from the empanelled parties, subject to their meeting the qualifying criteria for that package must be indicated in the RfE along with the indicative QR. Based on the requests received, the Applicant be empanelled for the procurement and as and when the need for the procurement arises, Price bids for the procurement be invited from the empanelled parties who may be considered for award depending on their complying with QR, as may be applicable, for that particular procurement and their bid being responsive. Such empanelment shall be carried out independently and updated on regular basis as would be decided as per procedure and only such applicant who are considered to have the capacity and capability to execute the contract be empanelled. Award against bids invited under this process shall be considered as award against Open Tenders.

7.11 Guidelines on Publication of NIT/IFB

- 7.11.1 For publishing the NIT, all the requisite inputs e.g. approved Package List, approved QR, Cost Estimate must be in place. The NIT may be published with provision for deferred sale/ down loading of bidding documents from a pre-specified date, by that time i.e. start of sale, all the requisite inputs must be in place.
- 7.11.2 Publicity of short NIB and detail NIB shall be done through NEEPCO web site, CPP portal, e-procurement portal for e-tenders, Indian Trade Journal, Foreign Embassies depending on the type of tenders. (NIB publicity stipulations are detailed in subsequent sections).
- 7.11.3 Keeping in view the high cost of advertisement, newspaper advertisement shall be as precise as possible and generally be adopted for tenders having estimated value more than a certain threshold level stipulated in the DOP.

The short NIB published in newspaper shall contain the information that corrigendum to the NIT on account of change in tender time line shall be published in the same newspapers in which original NIT had been published. However, corrigendum on account of any other reasons would be published only through web sites.

- 7.11.4 Selection of newspaper shall be done in uniform and transparent manner so that the distributions of advertisement are done equitably amongst the publishers.

7.12 Guidelines on tender time line for various types of tenders are contained in subsequent sections.

- 7.12.1 Under e- procurement the parties shall be free to download the bidding documents till the specified date and time. They shall not be required to pay the tender fee/ cost of bidding documents upfront for downloading the Bidding Documents. The same shall, however, be required to be paid at the time of bid submission. If the same is not paid, the bid shall be treated as non-responsive.
- 7.12.2 The Bid fee/EMD may be paid through payment gateway, if the same is in place, in line with the guidelines.
- 7.12.3 A Pre-Bid Conference may normally be convened for procurements characterized by complexities or such other conditions that deems fit for convening a Pre-bid Conference.
- 7.12.4 The date of bid submission and its opening may be extended in case of issuance of amendments/clarifications to the Bidding Documents and/or based on request of prospective bidders.

7.13 Guidelines on Bid Submission

- 7.13.1 The Deadline for Bid Submission of Bids for manual tenders shall be at a convenient time in the next working day subsequent to close of sale of Bidding Documents.
- However, under e- procurement, the Deadline for Bid Submission i.e. uploading the bids (Soft/ e-part of the Bid), on e-Procurement portal and opening of Bids shall be scheduled on the same day of closing of down loading of bid document. The deadline for submission of the Hard/ Paper-Part of the Bid along with the requisite Bid fee/EMD, shall be 5 days subsequent to the Deadline for online Bid Submission.
- 7.13.2 In the electronic procurement, bidders shall be permitted to submit their bids online only except the hard copy part of bid e.g. EMD, JV agreement, power of attorney etc. and such other documents as may be necessary other than the price Bid in physical form at the designated place before the deadline for submission of the Hard/Paper part of the bid. Price Bids shall be submitted online only.
- 7.13.3 Under e-procurement, in case the Soft/ e-Part of the Bid and/ or the Hard/ Paper-Part of the bid are not submitted as above, the bid shall be considered as incomplete and shall be treated Non-responsive. However, if the requisite tender fee/ cost of bidding documents is not submitted within the specified deadline, the bid shall be rejected.
- 7.13.4 **Modification / withdrawal of Bids**
- The Bidder may modify or withdraw its bid after submission, provided that modification or written notice of withdrawal is received by the NEEPCO prior to the deadline prescribed for bid submission.
- No bid may be modified or withdrawn after expiry of deadline of bid submission and prior to expiration of the bid validity period. Modification or Withdrawal of a bid during this interval will result in the Bidder's forfeiture of its bid security.
- 7.13.5 In Bidding Procedure, a bid submitted/ received after the deadline for bid submission shall be termed as 'Late Bid'. Such bids shall not be opened and shall be returned unopened.

7.14 Guidelines on Bid Opening

- 7.14.1 The bids shall be opened immediately after the Deadline of Bid Submission is over.
- 7.14.2 The bids shall be opened at the designated place on the electronic portal or otherwise as applicable, stipulated in the bidding documents irrespective of the number of bids received by such deadline. However, the bid submission may be extended, if it is observed at the time of bid submission that the response is low. During the bid opening, neither the merits of any bid shall be discussed nor shall be rejected.
- 7.14.3 During the bid opening, the highlights of the bid shall be read out and shall be recorded in Bid opening statement. In case of e-procurement such statement may be generated/uploaded in the e-procurement portal as per system requirement.
- 7.14.4 In case of e-Procurement, any extension in the date and time of Bid Submission/ Bid Opening shall not be considered merely on the plea/ground of system error/ access constraint or any such system related issue encountered by the particular party making such request.
- Bidders shall be clearly advised to upload their Bids in e-procurement portal well ahead of deadline for submission to evade last hour system congestion / network failure etc.

7.15 Nomination and Approval of Bid Opening Committee and Tender Committee

- 7.15.1 For the purpose of opening of Bids and evaluating the bids, committees termed as 'Bid Opening Committee' and 'Tender Evaluation Committee' shall be constituted before opening of bids as per Guidelines contained in the subsequent section.
- 7.15.2 In case, the Tender Committee members has personal interest in any of the bidders who have participated in the bidding process, then such member shall refrain from participating in the Tender Committee.

Chapter 8

8.0 **EVALUATION OF BIDS:**

[Responsibility Centre: Contracts Dept. for the commercial part, Indenting/D&E Dept as the case may be for the technical part/ and Finance Dept. for the financial part– Contracts Dept. shall be the Coordinating Dept.]

The bid evaluation procedures in details are elaborated in subsequent sections. Following are the broad guidelines.

8.1 **Confidentiality of Process**

- i) Information relating to the examination, clarification, evaluation and comparison of bids, and recommendations for the award of a contract, shall not be disclosed to bidders or any other person not officially concerned with such a process until the award to the successful bidder has been announced.
- ii) From the time of bid opening to the time of contract award, no bidder shall contact the Tendering Authority on any matter related to the bid, except on request and prior written permission.
- iii) Any effort by the bidder to influence the Tendering Authority in bid evaluation, bid comparison or contract award decisions will vitiate the process and will result in the rejection of the bidder's bid.

8.2 Bids shall be evaluated generally based on the criteria specified in the bidding documents. Special and/ or peculiar issue and/or circumstances encountered during bid evaluation, if not specifically covered in the bidding documents, shall be dealt with in fair, transparent and equitable manner and duly recorded along with assumptions made, if any.

8.3 For Procurement under World Bank/ ADB/ KfW funding or under funding by such other agencies, the guidelines, if any, as may be prescribed by them shall be taken into account for bid evaluation. Similarly, in respect of Procurement for and on behalf of other utilities/ Client Organizations, the guidelines, if any, as prescribed by them shall be taken into account for bid evaluation.

8.4 The evaluation criteria shall be objective and quantifiable, as far as practicable.

8.5 The bid evaluation shall involve the following:

- (i) Examination of bids for applicable taxes, duties and other levies, which are reimbursable in line with the provisions of the Bidding Documents, and determination of the same to arrive at the Bid Price including taxes & duties, wherever required for arriving at the evaluated Bid Price.
- (ii) Arriving at the Evaluated Bid Price considering the cost compensations, if any, and other factors viz capitalized amount towards guaranteed parameter and other aspects as identified in the bidding documents.

8.6 In assessing the cost compensation towards minor deviations for arriving at the evaluated price, the cost of withdrawal indicated by the bidder shall be taken into account. If the same is not given, the bid shall be treated as non-responsive and shall not be considered further.

8.7 In those cases, where the bidder has taken a material deviation but has not indicated the cost of withdrawal, the bid shall be treated as non-responsive and shall not be considered further.

- 8.8 The bidder shall withdraw the deviations at no cost to NEEPCO or at the cost of withdrawal stated by him in the bid. In case the bidder does not withdraw the deviations proposed by him, if any, at the cost of withdrawal stated by him in the bid, his bid will be rejected and his bid security forfeited. If he withdraws the deviation as above, the cost of withdrawal stated by him in the bid shall be added to his award price.
- 8.9 Wherever there is provision for differential prices on account of functional guarantees of the facilities/guaranteed performance of equipment/ material/ systems, the value of differential prices shall be worked out as per the methodology given in the bidding documents, for adding the same to the computed price of the bidders for the purpose of evaluation.
- In case the Functional guarantees/ Performance Guarantees are not indicated by the Bidder/or has been indicated erroneously/or which is in technically non-feasible range, the clarification/document shall be sought from the bidder. If the bidder fails to furnish satisfactory clarification/document, the bid shall be considered as non-responsive and shall not be considered further.
- 8.10 As a matter of general policy, the contract shall not be awarded to any bidder under Two Envelope Bidding Process, other than the one whose bid has been determined as the lowest evaluated responsive bid. In case for some reason, other than reasons of fraud and corruption including misrepresentation, the lowest evaluated bid cannot be accepted, the bidding process shall be annulled and fresh bidding shall be resorted to. In pursuance to this policy during the course of bid evaluation under Two Envelope Bidding Process, the responsiveness of bids and acceptability of the bidder for award of contract shall be ensured during First Envelope evaluation process.
- 8.11 An assessment of bidders' general capacity and capability to execute a contract shall be undertaken as per the guidelines detailed herein before recommending a bidder for award of Contract. The Employer/ Owner shall reserve the right for the same which shall also be stipulated in the Bidding Documents.
- Capability would generally be assessed taking into account embedded resources of the entity and would primarily include assessment of its organizational and management set up; financial resources; manpower resources for project management including engineering, procurement and construction; methodology for execution; Quality Systems, Environment protection/ Safety procedures and past experience in executing similar works etc.
- Capacity would generally refers to the quantum of works that a bidder can possibly undertake nearly simultaneously and can be assessed based on Bid capacity.
- 8.11.1 Such assessment shall be undertaken based on details and information furnished by the bidder / person authorised by its Key Managerial Person viz. Chairman/ Managing Director of the Board of the Company/ Company Secretary/ All Partners in case of Partnership firms/ Proprietor in case of Proprietorship firm.
- 8.11.2 While assessing a bid, one or more of the following shall normally be taken into consideration:
- (a) Substantial change in financial position of the bidder based on information available like reference to CDR including merger/demerger/acquisition etc. of the bidder.
 - (b) Adverse performance of the bidder in on-going Contracts.
 - (c) Any other condition.

- 8.11.3 Assessment Committee may comprise of a representative each from Finance, Indenting/ D&E, Law and Contracts & Procurement Dept. depending upon the assessment requirements.
- 8.11.4 The assessment of capacity and capability of sub-vendor/ sub-contractor shall not be carried out in normal course. However, Associate/Manufacturer or such party who has been conjoined by the Contractor to independently execute a pre-selected part of the Facilities of the Contract and who have the associated contractual rights and obligations shall be dealt with as per the methodology stipulated herein.
- 8.11.5 Result of Techno-commercial evaluation and notification for Price Bid opening shall be hosted in NEEPCO website.
- 8.12 For the purpose of efficient contract management Performance evaluation of the contractors shall be carried out by respective Engineer-In-Charges periodically during the contract period. The performance Indicators shall be based on relevant factors necessary for successful contract execution.
- 8.13 The Tender Committee, while evaluating the bids, will take into account the aforesaid aspects and other factors deemed necessary for ascertaining the suitability of a bidder for successful execution of the contract.
- 8.14 The Tender Committee, if considers appropriate, may recommend award in favour of a contractor or may recommend negotiation for reduction of prices.
- 8.15 During the process of evaluation, a bid for transgression of Integrity Pact, shall also be treated as non-responsive.
- 8.16 Tenders that do not meet the basic requirements specified in the bid documents are to be treated as unresponsive and ignored. All tenders received will first be scrutinized by the evaluation committee to see whether the tenders meet the basic requirements as incorporated in the bid document and to identify unresponsive tenders, if any. Some important points on the basis of which a tender may be declared as unresponsive and be ignored during the preliminary evaluation are:
- (i) The tender is not in the prescribed format or is unsigned or not signed as per the stipulations in the bid document;
 - (ii) The required EMD has not been provided or exemption from EMD is claimed without acceptable proof of exemption;
 - (iii) The bidder is not eligible to participate in the bid as per laid down eligibility criteria (example: the bid condition says that the bidder has to be a registered MSE unit but the tenderer is a, say, large scale unit);
 - (iv) The bidder has quoted for goods manufactured by a different firm without the required authority letter from the proposed manufacturer;
 - (v) The bid departs from the essential requirements specified in the bid document (for example, the bidder has not agreed to give the required performance security); or
 - (vi) Against a schedule in the list of requirements in the NIT, the bidder has not quoted for the entire requirements specified in that schedule (example, in a schedule, it has been stipulated that the bidder will supply the equipment, install and commission it and also train the purchaser's operators for operating the equipment. The bidder has, however, quoted only for supply of the equipment).

A clause to this effect should also form part of the tender documents.

- 8.17 **Clarification of bids/shortfall documents:** So far as the submission of documents is concerned with regard to qualification criteria, after submission of bids, only related

shortfall documents should be asked for and considered. For example, if the bidder has submitted a supply order without its completion/performance certificate, the certificate can be asked for and considered. However, no new supply order should be asked for so as to qualify the bidder.

- 8.18 During evaluation of TC Bids, only minor deviations may be accepted/allowed, provided these do not constitute material deviations without financial impact and do not grant the bidder any undue advantage vis-à-vis other bidders and the Corporation.

A material deviation, reservation, or omission which should not be waived are those that;

- a) Affects, in any substantial way, the scope, quality or performance of the goods and related services specified in the contract;
- b) Limits, in any substantial way, inconsistent with the bid documents, Corporation's rights or the bidder's obligations under the contract; or
- c) If rectified, would unfairly affect the competitive position of other bidders quoting substantially responsive offers.

A clause to this effect should also form part of the tender documents.

- 8.19 Sometimes, some bidders offer suo motu discounts and rebates after opening of tender (techno-commercial or financial). Such rebates/discounts should not be considered for the purpose of ranking the offer, but if such a firm does become L1 at its original offer, such suo motu rebates can be incorporated in the contracts. This also applies to conditional rebates, for example, rebate for faster payments, and so on.

A clause to this effect should also form part of the tender documents.

8.20 Evaluation of Techno-Commercial Bid:

In evaluation of the techno-commercial bid, conformity of the eligibility/ qualification, technical and commercial conditions to those in the bid document is ascertained. Additional factors, if any, incorporated in the bid documents may also be considered in the manner indicated therein. Evaluation has to be based only on the conditions included in the bid document and any other condition should not form the basis of this evaluation. It is of utmost importance that the authenticity, integrity and sanctity of unopened Price Bids must be ensured, before their opening. All the Price bids may preferably be put in a large envelope, which may be dated, sealed and signed (including by some of the bidders present), to show that none of the bids were accessed during the custody.

- i) **Evaluation of eligibility/ qualification Criteria:** Tendering Authority will determine, to its satisfaction, whether the bidders are eligible, qualified and capable in all respects to perform the contract satisfactorily. Bids that do not meet the required eligibility/ qualification criteria prescribed will be treated as unresponsive and not considered further. This determination will, inter-alia, take into account the bidder's financial, technical and production capabilities for satisfying all of purchaser's requirements as incorporated in the bid document. Such determination will be based upon scrutiny and examination of all relevant data and details submitted by the bidder in its/ his bid as well as such other allied information as deemed appropriate by purchaser's.
- ii) **Evaluation of Technical Suitability:** The description, specifications, drawings and other technical terms and conditions are examined by Tender Evaluation Committee (TEC) in general and technical member(s) of the TEC in particular. Nobody outside the TEC should be allowed to determine this evaluation. Even if an external expert's advice and report is obtained, it is still the responsibility of the technical member(s)

in particular and the TEC in general to accept/ reject or modify the evaluation contained in such a report/ evaluation. The tender document should clearly state whether alternative offers/ makes/ models would be considered or not and, in the absence of an express statement to the effect, these should not be allowed. An important document is the exceptions/ deviation form submitted by the bidder. It is important to judge whether an exception/ deviation is minor or major. Minor exceptions/ deviations may be waived provided they do not constitute any material deviation and do not have significant financial impact and, also, would not prejudice or affect the ranking order of the price bid. Exceptions/ deviations should not grant the bidder any undue advantage vis- a-vis other bids and Tendering Authority.

- iii) **Evaluation of Commercial Conditions:** The TEC will also evaluate the commercial conditions quoted by the bidder to confirm that all terms and conditions specified in the GCC/ SCC have been accepted without reservations by the bidder. Only minor deviations may be accepted/ allowed, provided these do not constitute material deviations without financial impact and do not grant the bidder any undue advantage vis-a-vis other bids and Tendering Authority.
- iv) **Declaration of Technically Compliant Bidders:** If it is a multiple envelope bid, then the TEC prepares a recommendation of techno-commercial bid to declare successful bidders. In such cases, after the approval of Competent Authority, the results of the Techno-commercial bid evaluation are to be announced (including informing the failed Bidders). Price bids are opened in the presence of technically suitable bidders, who are willing to attend the bid opening, at a pre-publicised date, time and place or on the portal in case of e-procurement. In single envelope/ cover tender, TEC proceeds to evaluate the price aspects without a reference to Competent Authority at this stage.

8.21 Right of Bidder to question rejection at Techno-commercial Stage:

A bidder shall have the right to be heard in case he feels that a proper procurement process is not being followed and/ or his Techno-commercial bid has been rejected wrongly. The bidder is to be permitted to send his representation in writing. On receipt of representation it may be decided whether to withhold opening of the Price bids and bidder may be expeditiously replied. Only a directly affected bidder can represent in this regard:

- (i) Only a bidder who has participated in the concerned procurement process i.e. pre-qualification, bidder enlistment or bidding, as the case may be, can make such representation;
- (ii) In case pre-qualification bid has been evaluated before the bidding of technical/ price bids, an application for review in relation to the technical/ price bid may be filed only by a bidder who has qualified in pre-qualification bid;
- (iii) In case technical bid has been evaluated before the opening of the price bid, an application for review in relation to the price bid may be filed only by a bidder whose technical bid is found to be acceptable.

8.22 Evaluation of Price Bids and Ranking of Bidders

- i) **Unresponsive Bidders:** Unresponsive bidders may again be identified after Price Bid opening, as in case of Technical Bid opening. If the price bid is ambiguous so that it may very well lead to two equally valid total price amounts, then the bid should be treated as unresponsive.
- ii) **Non-conformities between Figures and Words:** Sometimes, non- conformities/ errors are also observed in responsive bidders between the quoted prices in

figures and in words. This situation normally does not arise in case of e-Procurement. This should be taken care by defining the treatment of bids in the bid documents in the manner indicated below:

- a) If, in the price structure quoted for the requirements, there is discrepancy between the unit price and total price (which is obtained by multiplying the unit price by the quantity, or the total price is not worked out by bidder), the unit price shall prevail and the total price corrected accordingly;
 - b) If there is an error in a total corresponding to the addition or subtraction of sub-totals, the sub-totals shall prevail and the total shall be corrected; and
 - c) If there is a discrepancy between words and figures, the amount in words shall prevail.
 - d) Such a discrepancy in an offer should be conveyed to the bidder asking him to respond by a target date and if the bidder does not agree to Tendering Authority's observation, the bid is liable to be rejected.
- iii) **Correction of Bids:** Bid document should indicate that the evaluated bid prices will be adjusted after taking into account: (a) correction for errors; (b) adjustments for any acceptable variations, deviations; and (c) adjustments to reflect any discounts or other modifications offered. Unless announced beforehand explicitly in the bid documents, the quoted price should not be loaded on the basis of deviations in the commercial conditions. If it is decided to incorporate such clauses, these should be unambiguous and clear - and thereafter there should be no relaxation during evaluation. Variations, deviations, or alternative offers and other factors which are in excess of the bid documents or otherwise result in unsolicited benefits for the contractor should not be taken into account in bid evaluation. All duties, taxes and other levies payable by the bidder under the contract or for any other cause shall be included in the rates, prices and total bid prices, and considered in evaluation of bids. Bids should be checked for any arithmetical errors. These corrections shall be done in accordance with the provisions of the bidding document. In accordance with the corrections as approved by the TEC, the amount stated in the bid will be adjusted with the concurrence of the bidder, and shall be binding on him. If the bidder does not accept the corrected amount, the bid will be rejected and the bid security forfeited. The arithmetical corrections will be done by the representatives of the Finance Division and the concerned (technical) division in the committee.
- iv) **Price Evaluation:** All responsive bids are evaluated by the TEC with a view to select the lowest (L1) bidder - the lowest evaluated, substantially responsive, bid which meets the eligibility/ qualification criteria and techno-commercial aspects.

8.22 Extension of Bid Validity Period

The entire process of scrutiny and evaluation of bids, preparation of ranking statement and notification of award must be done expeditiously and within the original bid validity period. The validity period should not be unreasonably long as keeping the bid unconditionally valid for acceptance for a longer period entails the risk of getting higher prices from the bidders.

If, however, due to some exceptional and unforeseen reasons, the purchaser is unable to decide on the placement of the contract within the original validity period, it may preferably request, before expiry of the original validity period, all the responsive bidders to extend their bids up to a specified period. While asking for such extension, the bidders are also to be asked to extend their offers as it is, without any changes therein. They may also be told to extend the validity of the EMD for the corresponding additional period (which is to be specified in the request). A bidder may not agree to such a request

and this will not lead to forfeiture of its EMD. But the bidders, who agree to extend the validity, are to do so without changing any terms, conditions, and so on, of their original tenders.

Reasons for seeking extension of bid validity should be recorded by the procuring officers.

8.24: Consideration of Abnormally Low Bids

An Abnormally Low Bid is one in which the Bid price, in combination with other elements of the Bid, appears so low that it raises material concerns as to the capability of the Bidder to perform the contract at the offered price. Tendering Authority may in such cases seek written clarifications from the Bidder, including detailed price analyses of its Bid price in relation to scope, schedule, resource mobilization, allocation of risks and responsibilities, and any other requirements of the bid document. If, after evaluating the price analyses, tendering authority determines that the Bidder has substantially failed to demonstrate its capability to deliver the contract at the offered price, the Tendering Authority may reject the Bid/ Proposal. However, it would not be advisable to fix a normative percentage below the estimated cost, which would automatically be considered as an abnormally low bid.

As a safeguard, it should be closely monitored that final payments in such cases do not abnormally increase due to extra items. Further, there is no abnormal increase in quantities of the item for which contractors have initially quoted very high rates.

8.25: Consideration of Lack of Competition:

Sometimes, against advertised/ limited tender cases, the tendering authority may not receive a sufficient number of bids and/ or after analysing the bids, ends up with only one responsive bid - a situation referred to as 'Single Offer'. Such situation of 'Single Offer' is to be treated as Single Bid. The contract may be placed on the 'Single Offer' bidder provided the quoted price is reasonable. However restricted powers of Single bid mode of procurement would apply. Before retendering, the tendering authority is first to check whether, while floating/ issuing the enquiry, all necessary requirements and formalities such as standard conditions, industry friendly specification, wide publicity, sufficient time for bidding, and so on, were fulfilled. If not, a fresh enquiry is to be issued after rectifying the deficiencies. It has become a practice among some tendering authorities to routinely assume that open tenders which result in single bids are not acceptable and to go for retender as a safe course of action. Re-bidding costs: firstly the actual costs of retendering; secondly the delay in execution of the work with consequent delay in the attainment of the purpose for which the procurement is being done; and thirdly the possibility that the re-bid may result in a higher bid. Lack of competition shall not be determined solely on the basis of the number of bidders. Even when only one bid is submitted, the process may be considered valid provided following conditions are satisfied:

- i) The procurement was satisfactorily advertised and sufficient time was given for submission of bids;
- ii) The qualification criteria were not unduly restrictive; and
- iii) Prices are reasonable in comparison to market values.

However restricted powers of Single bid mode of procurement would apply. In case of price not being reasonable, negotiations (being L1) or retender may be considered as justifiable.

8.26 LOI/LOA to Successful Bidder

Prior to the expiry of the period of bid validity, the successful bidder will be notified (briefly indicating therein relevant details such as quantity, specification of the goods ordered, prices, and so on) in writing by email/ registered letter or any other acknowledgeable and foolproof method that his bid has been accepted. In the same communication, the successful bidder is to be instructed to furnish the required performance security within a specified period [generally 14 (fourteen) days].

In respect of contracts upto Rupees ten lakh, where tender documents include the General Conditions of Contract (GCC), Special Conditions of Contract (SCC) and scope of work, the letter of acceptance will result in a binding contract.

In respect of contracts with estimated value more than Rupees ten lakh, a contract document should be executed, with all necessary clauses to make it a self contained contract. If, however, these are preceded by NIT, accompanied by GCC and SCC, with full details of scope and specifications a simple one page contract can be entered into by attaching copies of the GCC and SCC, and details of scope and specifications, offer of the bidder and letter of acceptance.

Contract document should be invariably executed in cases of turnkey works or agreements for maintenance of equipment, provision of services etc.

8.27 Publication of Tender Results and Return of EMD of Unsuccessful Bidders

Details of Bid award is to be published on the CPPP and also in the NEEPCO's website. Upon the successful bidder furnishing the signed agreement and performance security, each unsuccessful bidder will be promptly notified and their bid security be returned without interest within 30 (thirty) days of notice of award of contract. The successful contractor's bid security shall be adjusted against the Security Deposit (SD) or returned as per the terms of the bid documents.

In cases, where PSUs compete with private firms in public tenders, publication of details of contracts awarded by the PSU concerned to various sub-vendors, suppliers, technology providers and other associates before firming up their offer, may hurt the interest of the PSU as the competitors may get to know the details of sub-vendors, suppliers, technology providers and other associates as well as the price at which the contracts are placed. Therefore, in such cases, publication of details of contracts awarded may be dispensed with.

Chapter 9

9.0 **POST BID DISCUSSIONS (PBD) AND CONTRACT AWARD:**

[Responsibility Centre: Contracts Dept., Indenting Dept., Financing Dept. D&E Dept., CPM Dept., QCA Dept.– Contracts Dept. shall be the Coordinating Dept.]

9.1 **POST BID DISCUSSIONS (PBD)**

- 9.1.1 PBD shall be held with the bidder approved for award of contract to resolve and tie up significant issues including issues involving financial implication as may have been identified in the approved Evaluation Report/directed by Competent Authority.
- 9.1.2 After approval of resolutions and tie ups during PBD, the Notification of Award (NOA) for the Contract in question shall be issued. Issue of Letter of Intent (LOI) shall constitute the Notification of Award (NOA).
- 9.1.3 Price negotiation, if so directed/approved by the Competent Authority while approving the evaluation report/award recommendations, shall also be conducted during PBD.
- 9.1.4 The Issues like arithmetical correction in the bid price, squeezing of completion schedule, issues involving cost compensation, post bid change in tax structure till Award Recommendation, L2 network finalization etc. and such other issues as may have been brought out in the Evaluation Report shall be tied up during PBD.
- 9.1.5 The sub-vendors for supplies, for which QR is applicable as well as for which QR is not applicable, shall be tied up to the extent possible in the PBD. Besides tie-up of sub-vendors from those identified by the successful bidder in his bid, there shall be no objection to tie-up sub-vendors which the successful bidder may additionally propose provided they meet the QR, if applicable, and are acceptable to NEEPCO.
- 9.1.6 The sub-contractors, if any proposed by the successful bidder in his bid in respect of services shall normally be dealt with/deliberated in the evaluation report for their acceptance or otherwise. If not proposed in the bid or their acceptance requires assessment to be carried out by NEEPCO, the same shall be dealt with during Contract execution. However, there shall be no objection for tie-up of Sub-Contractors during PBD in respect of services of such nature that are generally out-sourced viz F&I, Custom clearance and Port handling etc. or are of small nature (less than 10% of total Contract Price for services) whether indicated in the Bid or requested by the successful bidder during PBD.
- 9.1.7 'Associate' as proposed by the successful Foreign Bidder in his Bid shall be tied up during PBD.
- 9.1.8 The 'Associate' as proposed in the bid may be accepted as 'Sub-Contractor' if so deliberated in the Evaluation Report as approved.
- 9.1.9 Sub-contracting the 100% of the contract on back to back basis shall not be permitted until and unless otherwise deliberated in the Evaluation Report approved by the Competent Authority.
- 9.1.10 Normally, the Contract Price, except where negotiations are involved, after PBD shall be the same as per the approved evaluation report. However, if there is a difference, the reasons for the same shall be specifically brought out in the proposal of PBD for approval. In no case, any increase in Contract Price or any other routine tie-up with additional financial implication on NEEPCO shall be permitted during PBD
- 9.1.11 The award may be placed without PBD in case the situation so warrants and/or there is no requirement of tying up of any issue.

9.2 ISSUANCE OF NOTIFICATION OF AWARD (NOA) & SIGNING OF CONTRACT AGREEMENT (CA)/CONTRACT PERFORMANCE GUARANTEE (CPG).

- 9.2.1 The issuance of NOA (LOI) conveying inter-alia acceptance of the offer/proposal/bid of the successful bidder, shall constitute formation of the Contract. The same shall be specifically mentioned therein.
- 9.2.2 Referring to the NOA, the successful bidder shall arrange the necessary BGs including CPG/ISD for which he shall be advised through the NOA.
- 9.2.3 The NOA conveys the acceptance of a Bidder's proposal/offer/bid after mutually agreed tie ups/resolutions during PBD. Un-conditional acceptance of NOA shall be sought from the bidder.

Chapter 10

10.0 SPECIFIC PRE-AWARD ISSUES

10.1 Issues on Cost Estimate:

10.1.1 While preparing the Cost Estimate at Project/Site level, following methodology shall be adopted:

- (i) The Cost Estimate comprising Civil/Electrical works may be prepared based on latest SOR (Schedule of Rates) published by the PWD of the state in which the project/site is located updated with premium as published by PWD or any other acceptable mode.
- (ii) For the items which are not covered in SOR, the estimate may be prepared on the basis of budgetary quotation.

10.1.2 While preparing the Cost Estimate for packages of approved Project, following methodology shall be adopted:

- (i) The Cost Estimate shall be based on approved DPR cost updated (wherever required) to current price level normally with the help of WPI (All commodities) and CPI (Industrial labour) published by the RBI considering material and labour component as 70% and 30% of the approved cost respectively. However, the components and corresponding percentages may vary depending on the nature of work.
- (ii) Rates for certain items considered necessary during tender stage, but not included in DPR may be taken from latest SOR (Schedule of Rates) published by the PWD of the state in which the project/site is located. However, if such items which are not covered in SOR, reference of rates of similar items executed by the Corporation in the past may be taken. Rates may also be evaluated on the basis of rates collected through budgetary quotations in case of availability.

10.2 Issues on Qualification Requirements

10.2.1 In instances wherein a bidder is not able to submit the requisite documents certified/issued by the authority (ies) as envisaged in the bidding documents viz. Audited Financial Statement, due to inapplicability of the same as per the local governing law, the compliance may be ascertained based on documents which are authentic and prevailing as per the country specific regulations.

10.2.2 In respect of a Joint Venture to qualify, each of its partners or combination of partners shall meet the minimum criteria specified in the QR for an individual bidder for the component of the contract they are designated to perform.

10.3 Issues on Bidding Process

10.3.1 Single response against Limited Tender Invitation shall be treated as without call of tender.

10.3.2 Tenders/bid invited/called from all the parties pre-qualified or empanelled/enlisted through newspaper advertisement with the approval of Competent Authority, shall be deemed to be Open Tender.

10.4 Issues on Taxes and Duties

10.4.1 All taxes and duties applicable on raw material/component/sub-assembly procured for manufacturing finished goods (material/equipments) to be supplied to NEEPCO

either directly by the contractor or through sub-vendor, are to be included in the price quoted by the bidder.

10.4.2 All taxes and duties applicable on materials/equipments supplied as finished goods to NEEPCO through Sub-Vendor/Sub-Contractor (bought-out items) are to be included in the price quoted by the bidder for such items.

10.4.3 Works Contract Tax (WCT) i.e. Sales Tax on Works Contract, as applicable, shall be included in the bid price and NEEPCO would not bear any liability on this account. NEEPCO shall, however, effect TDS as per the rules/statutory requirements and issue TDS certificate.

10.4.4 **Change in Taxes and Duties and imposition of new Taxes & Duties after the date stipulated in bid document (normally 28 days prior to original date of opening of techno-commercial bid).**

If, after the date which is 28 (twenty eight) prior to the last date for submission of Price Bid for the Contract there occur changes to any National or State Statute, Ordinance or Decree or other Law or any regulation or bye law of any local or other duly constituted authority or introduction of any such state statute, Ordinance, Decree, Law, regulation or bye law which causes additional or reduced cost to the Contractor in execution of the Contract, the following methodology shall be followed:

(i) Any new tax introduced/ increase in existing tax shall be reimbursed to the contractor. Similarly if any existing tax is withdrawn/ decreased, the contractor shall pass-on the benefit on account of such withdrawal (for items for which taxes and duties are included in the bid price) to NEEPCO.

(ii) Notwithstanding the above, such additional or reduced cost shall not be separately adjusted (paid/recovered) if the same already have been taken into account in the cost indices or prices to the Price Adjustment Formula provided in the contract.

10.4.5 **Octroi and Local Taxes:** In case the goods supplied against contracts placed by Corporation are exempted from levy of town duty, octroy duty, terminal taxes and other levies of local bodies, the suppliers would be informed accordingly by incorporating suitable instructions in the bid document and in the resultant contract. Wherever required, the supplier should obtain the exemption certificate from the Corporation to avoid payment of such levies and taxes.

In case such payments are not exempted (or are demanded in spite of the exemption certificate), the supplier should make the payment to avoid delay in supplies and forward the receipt to the Corporation for reimbursement and for further necessary action.

10.4.6 **Duties/Taxes on raw materials:** Corporation is not liable for any claim from the supplier on account of fresh imposition and/or increase (including statutory increase) in excise duty, customs duty, sales tax, and so on, on raw materials and/or components used directly in the manufacture of the contracted goods taking place during the pendency of the contract, unless such liability is specifically agreed to in terms of the contract. **A clause to this effect should also form part of the tender documents.**

10.5 Bank Guarantee/ Letter of Credit

10.5.1 EMD/ Bid Security/ Bid Guarantee

10.5.1.1 In some cases, the EMD/Bid Security/Bid Guarantee which are submitted in the form of Bank Guarantee, have its contents deviating from that given in the bidding documents. While such a Bank Guarantee, with value and validity different from that

prescribed, may not be acceptable, it would not be prudent to reject a Bank Guarantee with changed text but otherwise meeting the intent and purpose, as well as other important parameters such as value and validity etc. Accordingly, such cases need to be dealt with as described below.

10.5.1.2 The Bank Guarantee shall not be accepted and the bid shall be treated as non-responsive, if:

- (i) The name of the package along with the Specification No., mentioned in the BG is different from the package for which bids have been invited.
- (ii) The firm/proprietor, on whose behalf the Bank Guarantee has been furnished, is different from the bidder.
- (iii) The Bank Guarantee is not of the prescribed value.
- (iv) The validity of the Bank Guarantee is less than the stipulated period. However, the shortfall, if any, up to a period of 7 (seven) days, shall be acceptable. Further, an additional shortfall only in the following cases shall be acceptable:
 - a. If the dead line for submission of bids and the date of bid opening has been extended, a shortfall up to the period of extension shall be acceptable.

10.5.1.3 Notwithstanding the generality of para 10.5.1.2 above, the acceptance of the Bank Guarantee (BG) towards Bid Security shall also be considered based on the following:

- (i) It shall be acceptable if the Stamp Paper used for the Bank Guarantee is purchased either in the name of the Issuing Bank or the Bidder (any of the partners of the Joint Venture in case of JV bidder).
- (ii) If the text of the BG is at variance from that of the format given in the bidding documents, the BG shall not be rejected merely on that ground. It shall be examined in consultation with the Law Dept. to ascertain whether it meets the required intent and purpose of bid security. If the BG is found to meet the intent and purpose of bid security, despite the variance in text, the Bank Guarantee shall be accepted.
- (iii) In case contradictions/ inconsistencies are observed in the value, validity, name of the beneficiary, name of the bank etc. at different places of the Bank Guarantee in the fillable part except in the Limitation of Liability para added by the issuing Bank, and/ or contradictions in the value indicated in figures and words, provided further that at least at one place the mentioned details match with the specified requirement, a confirmation from the issuing Bank shall be taken, in consultation with the Law Dept., to ascertain whether the Bank Guarantee shall be honored by the Bank in the event of encashment, for the requisite amount/ within requisite validity. If the Bank's confirmation is affirmative, whether by way of clarification or amendment to the Bank Guarantee, such Bank Guarantees shall be accepted as valid.

10.5.2 Contract Performance Guarantee (CPG)/ Security Deposit

10.5.2.1 For packages wherein additional performance security is required from the Collaborator /Subsidiary/ JVC/ Group/ Promoters/ Subcontractor towards successful performance of the equipment, the cost of equipment shall be the CIP/CIF/EXW cost including spares.

10.5.2.2 Submission of CPG required to be submitted by a Collaborator /Subsidiary/JVC/ Group/Promoters/ Sub-contractor/ etc. shall be a condition precedent for release of initial advance only if such Collaborator /Subsidiary/JVC/Group/Promoters/ Sub-contractor/ etc. are related to or connected with any of the criteria specified in the

Qualification Requirements for the bidders. If not, viz. in case of subcontractor to be selected as per the Technical Specification requirements, such guarantee even if required to be submitted, shall not be a pre-requisite for release of initial advance.

- 10.5.2.3 In cases where due to some reasons, award for the complete scope of work for which bids have been invited is not possible, award shall be split so as to place the award for the portion for which the requisite clearances are in place.

10.6 Issues on Annulment of Bidding Process, Snap Bidding/ Re-Tendering/ E-Reverse Auction

- 10.6.1 Bidding document shall contain a provision that NEEPCO reserves the right to annul the bidding process at any time prior to award of Contract including rejection of any or all bids after the same has been received, without thereby incurring any liability to the affected bidder or bidders or any obligation to inform the affected bidder or bidders of the ground of NEEPCO's action. Annulment may be done due to higher prices for unexplainable reasons, cartel formation or such aspects.

- 10.6.2 In case, circumstances warrant annulment of bidding process before the deadline for bid submission/opening of bids, a 'general notification' to this effect shall be issued on the Procurement Portal/ NEEPCO's website. The decision of annulment shall also be intimated to the bidders through online/offline mode, as the case may be, who have been issued the bidding documents. The bids, if any, received by that time shall also be returned. However, once the bids are opened (Techno-Commercial and/or Price part), the recourse under this provision to reject all the bids shall be opted as a last resort, recording adequate justification for such action. In all cases such annulment shall be done with the approval of Competent Authority for award of Contract. However in cases where the competent authority for award of contracts is the Board of Directors, the annulment shall be done with the approval of CMD.

- 10.6.3 Rejection of any or all the bids, for reasons whatsoever, shall be with the approval of the authority competent to award the particular package. However, if the approval of award falls within the powers of Board of directors, the rejection of bids shall be with the approval of CMD. The proposal for annulment of bidding, after the bids are opened, shall be processed by the tender committee through Contracts, Indenting and Finance Depts., for the approval of the Competent Authority.

- 10.6.4 Once all the bids are rejected for reasons of lack of competition or higher prices, the packaging/ technical specification/ QR etc. may be reviewed by the Indenting Dept., as appropriate, the same may be suitably modified.

10.7 Issues on Eligibility/Ineligibility of Firms for Participation in the Bidding Process

- 10.7.1 In case a bidder fails to honour its bids, after emerging as successful bidder, bids for any of the ongoing packages or for future packages with originally scheduled date of bid opening falling within a period of two year, shall not be considered for acceptance and shall be treated as deemed non-responsive. The period of two years shall be reckoned from the incidence of first such event.

- 10.7.2 While determining the responsiveness of a bid, safety record of a particular bidder shall also be taken into account as per the policy in force in this regard.

10.7.3 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 Corporation'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) In case of agents quoting in offshore procurements on behalf of their principal manufacturers, one agent cannot represent two manufacturers or quote on their behalf in a particular tender enquiry. One manufacturer can also authorize only one agent/dealer. There can be only one bid from the following:
 - 1. The principal manufacturer directly or through one Indian agent on his behalf; and
 - 2. Indian/foreign agent on behalf of only one principal.
- g) A 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.
- h) 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 should 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.

10.8 Issues on Contracts under Specific Circumstances e.g. Risk & Cost

10.8.1 While awarding a Contract on Risk and Cost basis, the following additional guidelines shall also be considered:

- (i) The Contractor who has defaulted under the earlier contract, shall not be debarred from participating in the new bidding process but their bid shall not be considered for acceptance and shall be treated as deemed non-responsive during the process of evaluation. Further, the bid security furnished by them shall not be released and shall be retained till the completion of the contract awarded on Risk and Cost basis.

10.8.2 One of the reference estimates for the purpose of comparison during evaluation in a tender invited on Risk and Cost basis shall also be the earlier awarded price of balance work updated to current level.

10.9 Grievance Redressal Mechanism/Complaint Handling System

10.9.1 If any firm being aggrieved during the procurement process, make an application against such grievances in writing duly authorized shall be reviewed as per following guidelines:

10.9.2 During procurement process prior to award of contract, the review shall be done for grievances of only those bidders who have participated in the procurement proceedings.

10.9.3 During the grievance redressal, information which impair the fair competition or is prejudice to the legitimate commercial interests shall not be disclosed.

10.9.4 The request for review on the following matters shall not be entertained:

- (a) Determination of need of procurement;

- (b) Provisions limiting participation of bidders in the procurement process
- (c) The decision to enter into negotiations;
- (d) Cancellation of a procurement process;

10.10 Owner Supplied Material in case of Site Packages

For Civil works Contractor may furnish a separate BG towards security of OSM (cement and steel). The value of the BG shall be 10% of the Contract price or the value of the maximum quantity of OSM likely to be in the Contractor's custody at any point of time, whichever is higher. Alternatively, bidder may be permitted to ensure the security of the OSM by fencing the storage area at their cost and taking an insurance cover (all risks) of the total value of the OSM to be issued to him for a particular package. While the insurance shall be in the joint name of the Contractor and NEEPCO, the premium shall be borne by the Contractor. Suitable provisions, taking into account all other relevant factors to safeguard NEEPCO's interest, shall accordingly be made in the bidding documents for site packages by the Region.

10.11 General Issues

- 10.11.1 In case of firms who have employed NEEPCO employees of the level of GM and above, within a period of two years from their superannuation or resignation, prior approval of the Board of Directors shall be required for award of any contract.
- 10.12 In case one bid is received against open tender or limited tender, the following may be given due considerations:
Re-bidding has costs, the actual cost of retendering. Secondly, delay in execution of the work with consequent delay in attainment of the purpose for which the procurement is being done, and thirdly, the possibility that the re-bid may result in a higher bid. Even with one bid received, the process may be considered valid provided following conditions are satisfied:
 - (i) The tender was satisfactorily advertised and sufficient time was given for submission of bids.
 - (ii) The qualifying criteria was not unduly restrictive; and
 - (iii) Prices are reasonable in comparison to market values.

In case the price in such a situation is not reasonable, negotiations or retender may be considered as reasonable.

10.13 Contractor's Performance Feedback System (CPFS)/ Supplier evaluation process to improve Supplier performance and also to help to make decision of supplier selection in next tendering process

- 10.13.1 CPFS / Supplier evaluation process to have a data system having the information on performance of all major contractors working / executing a works/supply contract to enable to have/maintain/assess performance track record of the contractors'/suppliers' capabilities to take up new projects in the same sector / nature of works /supplies shall be included in Bid Document (Say ITB) through incorporation of Checklist covering 5(five) different areas / parameters viz. Financial Management, Progress Management, Quality Management, Environment Health & Safety Management and Claims & Disputes Management to review the performance of the contractors/ suppliers for Works/ Supplies Contracts as per **Annexure-A** so that the issue of contractors taking up their work beyond their financial bandwidth could be addressed and/ or to improve Supplier performance and also to take decision of supplier selection in next tendering process.

10.13.2 The salient features of the Supplier Evaluation process as given in the foot note of the said Checklist is given as under:

- Where the Contractor/Supplier is executing the works /supplies Contracts, the respective Procuring/ Executing Authorities shall fill -up the fulfillment/achievement (in %) of Performance Parameters/Indicators whether "YES/NO" along with Remarks, in respect of achievement of Performance Parameters/Indicators, including Performance Evaluation thereof through "PERFORMANCE GRADING" i.e. whether "Excellent/ Very Good/ Good/Satisfactory/Poor", based on merit of actual fulfillment/achievement of above mentioned Performance Parameters/ Indicators by the contractor/supplier.
- The Procuring / Executing Authorities may seek necessary data/ information/ justifications from the respective contractor/supplier, whenever required to carry out Supplier performance evaluation process. Apart from that, to make the Supplier evaluation process complete in all respect, the Corporation reserves the right to seek any data/ information from agencies like State/Central Government, Stakeholders of Corporation, Funding agencies of the respective Project, Contractors/Suppliers other than the respective Contractor/ Supplier.
- The Supplier Evaluation Process of the Contractors/ Suppliers for a respective works/supplies Contracts shall be carried out in general on yearly basis
- If Performance Grading of a contractor/supplier is evaluated as "Unsatisfactory" for consecutive 2(two) years against a works/supply contract, then the contractor/supplier shall be debarred from participating in the next or future tenders /tendering process of NEEPCO for a period of 2 (two) years. The said debarment from participating in the next/future tenders of NEEPCO shall be limited to such nature of packages of works/supply, where the performance has been found as "Unsatisfactory".
- The Procuring/ Executing Authorities shall obtain approval on Supplier's Performance Evaluation of the Contractor/ Supplier against a Contract, from the authority competent of approving the award of work/supply, as per DOP. If Competent Authority of approving the award is CMD and above, then approval of Director (Technical) and CMD respectively shall be obtained on the same.
- In Supplier Evaluation Process, if the performance of Contractor/supplier is evaluated as "Unsatisfactory", then the Corporation reserves the right to terminate the respective contract as per the respective Contract stipulations.
The Supplier Evaluation Process shall be incorporated in the Bid Documents of future tenders at a suitable location (for example i.e. "Instructions to Bidders" of Bid documents) for information of the bidders.

Chapter 11: Procurement (Outsourcing) of Other (Non-consultancy) services

To make this chapter self-contained and complete some of the relevant paras are repeated wherever required. Any circumstances which are not covered in this manual for procurement of non-consulting services, the Procuring Entity may refer to Manual of Policies and Procedures for Procurement of Goods and not to the provisions for procurement of consulting services.

11.1 Applicability of this Chapter to Procurement (Outsourcing) of Other (Non-consultancy) Services

- 11.1.1 "Other services" (including the term 'Non-consultancy services' in certain contexts) are defined by exclusion as services that cannot be classified as Consultancy Services. Other services involve routine repetitive physical or procedural non-intellectual outcomes for which quantum and performance standards can be tangibly identified and consistently applied and are bid and contracted on such basis. It may include small works, supply of goods or consultancy service, which are incidental or consequential to such services. Other services may include transport services; logistics; clearing and Forwarding; courier services; upkeep and maintenance of office/ buildings/ Estates (other than Civil & Electrical Works etc.); drilling, aerial photography, satellite imagery, mapping and similar operations etc.
- 11.1.2 The term "Outsourcing of Services" implies deployment of outside agencies on a sustained long-term (for one year or more) for performance of other services which were traditionally being done in-house by the employees of Ministries/ departments (Security Services, Horticultural Services, Janitor/ Cooking/ Catering/ Management Services for Hostels and Guest Houses, Cleaning/ Housekeeping Services, .Errand/ Messenger Services, and so forth). There may be Human Resources and administrative issues involved in 'outsourcing' which are beyond the scope of this manual, but nevertheless need to be addressed. Besides outsourcing, other services also include procurement of short-term stand-alone services.
- 11.1.3 If the other services involve construction, fabrication, repair, maintenance, overhaul, renovation, decoration, installation, erection, excavation, dredging, and so on, of Civil assets, then it should be handled on the lines of procurement of Works. In case of fabrication, repair, maintenance, overhaul, renovation, decoration, installation, erection and so on, of mechanical, electrical or ICT assets – e.g. Annual Maintenance Contracts or installation/ commissioning of Machinery and Plant and so on, it may be handled on the lines of Procurement of Goods.
- 11.1.4 Any circumstance which is not covered in this chapter for procurement of non-consulting services, the Procuring Entity may refer to the Manual of Policies and Procedures for Procurement of Goods.
- 11.1.5 It is possible that, depending on the nature and complexity of the assignment, a task could be dealt with either as a consultancy or non-consultancy service. In essence, if the intellectual and advisory part of services dominates (and the physical part is incidental), the selection needs to be dealt with in Consultancy mode. For example, if the task is looking at the condition of a dam (for dam safety) by physically inspecting a dam through underwater observation, this task is collection of data using technologies

and photography, but the actual analysis is an intellectual and advisory task and is the crux of the assignment. Therefore, the entire task needs to be dealt with as selection of a consultant.

11.1.6 For sake of simplicity, this Manual of Policies and Procedure for the Procurement of Consultancy and other services is written from the point of view of procurement of Consultancy Services. This Chapter now covers the Outsourcing/ Procurement of Other (non-consultancy) Services, and points out areas where policies and procedures are different for such outsourcing/ procurements.

11.2 Authorities competent to procure Consultancy and other services and their Purchase Powers

Authorities competent to procure (outsource) Other (Non-consultancy) Services and their Purchase Powers is covered in para 1.4 in Chapter 1.

11.3 When is Procurement/ Outsourcing of Other (Non-consultancy) Services justified

In the interest of economy, efficiency and to provide more effective delivery of public services, GFR,2017 permits Ministries/ Departments to procure/ outsource auxiliary and support services. Approval of the competent authority should be obtained before engaging service providers. We may justify need for Procurement of other services on consideration of:-

- i) Economy, Speed and efficiency and more effective delivery of public services relating to additional requirement/ commitment/ usage of:
 - a) Staff/ Management/ Organization;
 - b) Technological and Material Resources;
 - c) Money, and
 - d) Time/ Speed of execution
- ii) An administrative policy decided by the Ministry/ Department to outsource specific(class of) services;

11.4 Principles for Public Procurement of other (non-consultancy) services:

11.4.1 Other principles of Public Procurement as mentioned in Para 1.6 in chapter-1, are also equally applicable to Procurement of other services. Additional principles of procurement needed to ensure value for money in of procurement of other services are to ensure:

- i) Services to be procured should be justifiable in accordance with Para 1.10 in Chapter-1;
- ii) In other (non-consultancy) services an Activity Schedule (a document covering well- defined scope of work/ description of services and the time frame for which services are to be availed of) should be consistent with the overall objectives of Procuring Entity;
- iii) Equal opportunity to all qualified service providers to compete should be ensured
- iv) Engagements should be economical and efficient; and
- v) Transparency and integrity in the selection process (that is, proposed, awarded,

administered, and executed according to highest ethical standards);

11.4.2 Period of Contract: A very short period of contract would require spending needless administrative time in repeating the exercise at short intervals while a very lengthy contract period may affect service quality. Therefore, in the normal course, the period of initial contract may be fixed normally for two years.

11.4.3 Extension of Contract: The clause of extension of contract beyond the period of two years may be for a further period of one year subject to the service provider providing satisfactory service. Thereafter fresh bidding for new tender for the said service may be undertaken. In all cases where the Service Provider has been levied a cumulative penalty of 5 percent of the total contract value, extension beyond the initial period of two years may not be considered.

11.4.4 Instances of Multiple L1s: In number of cases, especially non-consultancy services, usually multiple bidders emerge as L1. GeM provides following two options to choose the vendor to be engaged in case of multiple L1s:

- i) system determined vendor selection.
- ii) purchaser can select the vendor.

Multiple factors may weigh upon the decision of selecting the successful contractor. GeM system based selection could be more transparent, however, it takes away the discretion with purchaser to select a particular contractor, without any financial repercussion, on the basis of past experience in a particular department. On the other hand there may be instances where a procuring entity may be more comfortable with system based L1 selection method. Hence, the decision on the method of selection of successful contractor in case of multiple L1 may be left with the procuring entity. However, the method of selection of successful contractor in case of multiple L1 should be decided prior to issue of tender.

11.4.5 Past Experience: Bid documents may provide for a qualification criteria considering past experience. Normally past experience in supply of service at a particular station or to Central Government Ministries/ Departments is considered too restrictive. However, in case such restriction is considered essential the same may be provided for in the bid documents, duly recording reasons for such decisions on the file.

11.4.6 Housekeeping Services: In the case of Housekeeping/ cleaning services, GeM platform provides for Options based on (a) Floor Area wise cleaning and (b) Manpower. Usually, the floor area wise cleaning option is more cost effective. Accordingly, before a tender is floated, an exercise may be undertaken to determine the option which is considered beneficial for the Government, duly recording reasons for such decision on file.

11.4.7 Hiring of manpower through contracts should be avoided to ensure no future legal problems as these employees may demand regularization afterwards. Even, if employed, there should be no direct correspondence with such people. Even I-cards should be issued indicating the person to be representative of the contractor (name of the contractor to be mentioned).

11.5 Types of Contracts in Other (Non-consultancy) Services

Procurement/ Outsourcing of other (non-consulting) Services depending on the nature of services can be either Lump-sum contracts, Time-based contracts, or unit (item/ service) rate based contract (as in case of Goods and Works - say Taxi Service on Km basis). Or it can be a mix of these. For occasionally but continually needed services, indefinite delivery contracts, based on time or unit (item/ service) rates may be appropriate. Other types of contracts are not usual in procurement of other services.

11.6 System of Selection in Other (Non-consultancy) Services

- 11.6.1 Unlike Procurement of Consultancy Services, procurement of other services is done by a simpler process akin to those of procurement of Goods and Works. (*Rule 206 of GFR 2017*). It is normally done in a Single Stage (RfP) Process containing Technical and Financial bids. However in highly technical and complex services, where quality is important (say in studies like seismic surveys, airborne data acquisition etc) a pre-qualification (PQB) process may be done on the lines of procurement of Goods and Works.
- 11.6.2 In procurements above Rs 10 (Rupees Ten) Lakhs, it should normally be an advertised RfP. For procurement below Rs 10 (Rupees Ten) Lakhs, RfP can be issued to a selected shortlist of likely service providers. To start with preparation of a long list of potential service providers may be done on the basis of formal or informal enquiries from other Ministries or Departments or Organisations involved in similar activities, Chambers of Commerce & Industry, Association of consultancy firms etc. The Procuring Entity should scrutinise the preliminary long list of likely service providers as identified above and shortlist the prima facie eligible and capable service providers from the long list. The number of service providers in this moderated long-list should be more than three. To smoothen this shortlisting of service providers for projects below Rs 10 (Rupees Ten) Lakhs, Procuring entities who do frequent procurement of non-consultancy services, may consider preparation of a Panel of qualified service providers, after evaluation of their credentials, on the lines of registration of vendors in procurement of goods. (*Rule 201 of GFR 2017*)
- 11.6.3 In procurement of other (non-consultancy) services normally system of selection used is lowest price (L-1) basis among the technically responsive offers, as in procurement of Goods/ works. Under very special circumstances Single Source Selection may also be used. (*Rule 204 of GFR 2017*)

11.7 One Stop Government e-Marketplace (GeM)

- 11.7.1 An online marketplace (or e-commerce marketplace) is a type of e-commerce site where product or services are offered by a number of sellers and all the buyers can select the product/ services offered by any one of the seller, based on his own criteria. In an online marketplace, Purchaser's transactions are processed by the marketplace operator and then product/ services are delivered and fulfilled directly by the participating retailers. Other capabilities might include auctioning (forward or reverse), catalogues, ordering, posting of requirements by Purchasers, Payment gateways etc. In general, because online marketplaces aggregate products from a wide array of providers, selection is usually wider, availability is higher, and prices are more competitive than in vendor-specific online retail stores.

11.7.2 Ministry of Commerce have developed an online Government e-Market Place for common use goods and services. The procurement process on GeM is end to end from placement of supply order to payment to suppliers. This is to ensure better transparency and higher efficiency. All the process will be electronic and online. The Procurement of Goods and Services by Ministries or Departments will be mandatory for Goods or Services available on GeM.

11.7.3 **Products and services are listed on GeM by various suppliers as on other e-Commerce portals:** The registration of suppliers on GeM is online and automatic based on PAN, MCA-21⁴³, Aadhar authentication etc. The suppliers offer their products on GeM and the Government buyer are able to view all the products as well as compare them. Tools of reverse bidding and e-auction are also available which can be utilised for the procurement of bulk quantities.

11.7.4 **Demand Aggregation:** The best prices to a user can be available if same requirement demands of various organizations are aggregated. This acts as an incentive for the supplier to quote their best price. For the same products, the demand of various Govt. Departments can be clubbed together and reverse auction done on the basis of aggregated demand which will provide the best prices to the Govt. Department.

11.7.5 **Authority of procurement through GeM:** Procurement through GeM has been authorized as per GFR, 2017 Rule 149:-

“Government e-Market Place (GeM): Government of India has established the Government e-Marketplace (GeM) for common use Goods and Services. GeM SPV will ensure adequate publicity including periodic advertisement of the items to be procured through GeM for the prospective suppliers. The Procurement of Goods and Services by Ministries or Departments will be mandatory for Goods or Services available on GeM. The credentials of suppliers on GeM shall be certified by GeM SPV. The procuring authorities will certify the reasonability of rates. The GeM portal shall be utilized by the Government buyers for direct on-line purchases as under⁴⁴

- i) Up to {Rs.25,000/-}⁴⁵ through any of the available suppliers on the GeM, meeting the requisite quality, specification and delivery period (in case of procurement of Automobiles only the ceiling of direct purchase will be Rs.30 lakh instead of Rs. 25,000/-⁴⁶);
- ii) Above Rs.25,000/- and up to Rs.5,00,000/- through the GeM Seller having lowest price amongst the available sellers (excluding Automobiles where current limit of 30 lakh will continue), of at least three different manufacturers, on GeM, meeting the requisite quality, specification and delivery period. The tools for online bidding and online reverse auction available on GeM can be used by the Buyer even for procurements less than Rs5,00,000.
- iii) Above Rs.5,00,000/- through the supplier having lowest price meeting the requisite quality, specification and delivery period after mandatorily obtaining bids, using online bidding or reverse auction tool provided on GeM (excluding Automobiles where current limit of 30 lakh will continue).
- iv) The invitation for the online e-bidding/reverse auction will be available to all the existing Sellers or other Sellers registered on the portal and who have offered their

goods/services under the particular product/service category, as per terms and conditions of GeM.

- v) The above mentioned monetary ceiling is applicable only for purchases made through GeM. For purchases, if any, outside GeM, relevant GFR Rules shall apply.
- vi) The Ministries/Departments shall work out their procurement requirements of Goods and Services on either "OPEX" model or "CAPEX" model as per their requirement/suitability at the time of preparation of Budget Estimates (BE) and shall project their Annual Procurement Plan of goods and services on GeM portal within 30(thirty) days of Budget approval.
- vii) The Government Buyers 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, Department's own Last Purchase Price etc.
- viii) A demand for goods shall not be divided into small quantities to make piecemeal purchases to avoid procurement through L-1 Buying/ bidding/ reverse auction on GeM or the necessity of obtaining the sanction of higher authorities required with reference to the estimated value of the total demand."

It may be noted that it is the responsibility of the Procuring Entity to do due diligence for ensuring reasonableness of rates.

11.7.6 GeM Portal: <https://gem.gov.in>. Detailed instructions for user organization registration, supplier registration, listing of products, terms and conditions, online bidding, reverse auction, demand aggregation, call centre, etc. are available on this portal.

11.7.7 Payment Procedure in GeM: The payment procedure in GeM is governed by O.M. No. F.26/4/2016-PPD dated 23rd January, 2020⁴⁸ issued by D/o. Expenditure, M/o. Finance, New Delhi. The following procedures are prescribed for making payments to the Sellers/ Service Providers in GeM which shall be complied and adhered to by all concerned for different type of contracts such as:

- a) Supply of Goods & Services
 - b) Supply, Installation, Testing and Commissioning of Goods
 - c) Supply, Installation, Testing, Commissioning of Goods and Training of operators and providing Statutory Clearances required (if any)
-
- i) In respect of contracts for Supply of Goods, 100% payment including GST should be made after receipt and acceptance of Goods and generation of "Goods CRAC" (Consignee Receipt and Acceptance Certificate) subject to recoveries, if any, either on account of short supply and Liquidated Damages etc. for delay in supply.
 - ii) In respect of contracts for Services, payment should be made as per periodicity defined in the contract i.e. Monthly, Quarterly or any other pre-defined payment periodicity. 100% payment including GST for the particular payment cycle should be made after receipt and acceptance of the Services and generation of "Service CRAC" (Consignee Receipt and Acceptance Certificate) subject to recoveries, if any, either on account of short supply, SLA (Service Level Agreement) deviations

and Liquidated Damages for delay in supply etc.

- iii) In respect of contracts for Supply, Installation, Testing, Commissioning of Goods and Training of operators etc. the complete cost break-up indicating Basic price, GST, Installation and commissioning charges, Incidental Services, training etc. is to be indicated separately in the bid. In order to cater to installation intensive products, the different configurable payment terms will have to be incorporated in Gem functionalities (depending upon the quantum of installation and turnkey work required).
 - a. First Milestone - On delivery of goods: 80 to 90% payment (lower initial payment if installation scope is very extensive) of the basic price of Goods along with 100% GST on the Goods Price but excluding installation, testing and commissioning and other charges should be paid after receipt Goods and generation of "Delivery CRAC for initial payment". This will be issued after physical verification of quantity only but without commitment about quality or functionalities etc. which would be verified after installation/ commissioning etc. While creating the bid, Buyer shall have functionality to define the percentage of payment linked with delivery of Goods.
 - b. Second Milestone - On Acceptance after installation, testing and commissioning : Balance 10 % to 20% payment of the basic price of Goods and 100% charges for installation, testing and commissioning and other charges along with GST on these charges should be paid after installation and final Acceptance of Goods and generation of "Installation CRAC" to be issued by the End User/ Consignee. Recoveries, if any, either on account of short supply and Liquidated Damages etc. for delay in supply and I or installation etc. shall be made from the payment due under this milestone. While creating the bid, Buyer shall have functionality to define the deliverables in this milestone and the percentage of payment linked with this milestone.
 - c. Third (and subsequent) milestones - Payment of Incidental Costs: 100% Payment related to Incidental costs at consignee site towards Incidental Services (such as providing training, or other work/ service as per scope defined in the contract), to be paid on submission of "Final CRAC" by the End User / Consignee. While creating the bid, Buyer shall have functionality to define the deliverables in this milestone. In exceptional cases, Buyer may choose to split this milestone as required.
- iv) In case of contracts for Supply, Installation, Testing, Commissioning of Goods bundled with one or more Services such as Comprehensive Maintenance, Human Resource hiring for pre-defined time periods etc., the payments for Goods shall be governed by Para (iii) above while payment for Services shall be Governed as per Para (ii) above.
- v) In case of Milestone Based Payments, separate timelines / delivery periods for each milestone will be provided. In case of supply and installation contracts, the delivery period may be specified by filling up the blanks as under:
 - a. First Milestone - For delivery of goods at site : - days/ months from date of issue of contract with provision for staggered / multiple delivery period for same

consignee.

- b. Second milestone - Installation, Testing and Commissioning etc. of goods: - days /months from the date of handing over of site complete in all respect as per contract.
 - c. Third (and subsequent) milestones - Incidental Services etc.: - days after installation and commissioning.
- vi) The payments on GeM are primarily categorized under two heads i.e. through PFMS or GeM Pool Account. The detailed instructions for both type of payment system are as under:

A. Payments through PFMS:

1. The Central Government Buyer i.e. the concerned Programme Division or Administrative Unit in a Ministry/ Department will place the Contract online after taking prior approval of the Competent Authority for procuring a particular Good or Service. Inter-alia, the Contract form will also contain the following fields including fields required for payment related processes:

- a). Administrative approval of the Competent Authority indicating the designation of the approving authority,
- b). Approval of Competent Financial Authority indicating designation of the officer;
- c). Whether IFD concurrence required? (Yes/No) If yes, then IFD Diary No. & Date
- e). Budget Head of Account and Year, Major/Minor/Sub-head/Detailed Head/Object Head as in Detailed Demands for Grants.
- f). Budget availability as on date (Yes/No)
- g). Amount (Contract Value) Rs (Budget to be blocked)
- h). If expenditure is committed for more than a year, the year-wise details (portal should generate a Liability Register for recording multi-year payment commitments, the format for which is prescribed in Rule 53 of the GFR)

2. When these fields are duly captured, the Buyer will be in a position to place the Contract online. The GeM portal will generate a Sanction Order and the Contract which will be digitally/e-signed by the Buyer. These documents duly digitally/e-signed by the Buyer will be made available online to

The GeM the concerned DDO and PAO or Paying Authority as defined in the contract and Seller/ Service Provider. The DDO and PAO/Paying Authority shall have access to the Contract online in order to ensure that the Bill is generated at the stage of payment in accordance with the contractual provisions.

3. portal will send the Sanction Order details to PFMS.

4. On issue of Sanction order and placing the Contract for goods, the full amount required from the relevant Budget Head should be blocked in the PFMS. In cases of Services, amount should be blocked for one payment cycle as defined in the contract. Before releasing payment for any cycle, the funds required for the next payment cycle should be blocked so as to ensure availability of payable funds for the next payment cycle. Blocked fund will be treated as accrued expenditure by PFMS for the financial year in question and it will not be withdrawn for any other purpose other than the one

for which the amount is Blocked. In order to alleviate the operational issues as well as to ensure optimum utilization of available funds, the following additions⁴⁹ are made in para 4.17.7 (vi) (A) (4).

- a. The provision of fund blocking equivalent to full contract value is applicable only for contracts with delivery periods of up to 20 days. For contracts with longer delivery periods, fund blocking of appropriate amounts shall be initiated at a date 20 days prior to expected delivery date or on the date of invoice generation by the Seller in GeM whichever is earlier. In case of non-availability of required funds at that point of time, both buyer and seller shall be alerted, and the Buyer, the HoD, the DDO/ PAO and finally up to AS&FA of concerned Ministry/ Department shall be alerted by email and SMS by GeM. On failure in making available the required funds in the appropriate head of account within 10 days, seller has right to decline supply and to seek contract cancellation without any administrative action against the seller. Also, in such a case, any delay in delivery by the seller will also become exempt from the provision of Liquidated Damages.
 - b. Functionality to un-block the blocked funds in exceptional cases/ emergency cases with some validations: Head of Department (HoD) of the organization on GeM can unblock certain % of blocked funds of a contract (may be up to 100%) with the approval of associated finance of the Ministry/ Department or the CPSE in exceptional cases/ emergency cases after giving a clear undertaking that he will ensure timely availability of funds and unblocking will not lead to delay payments to sellers. However, such unblocking will not be allowed if the seller has already raised an invoice (before 1st March of Financial Year).
 - c. **Funds for the relevant financial year should be blocked only if the delivery period is such that the delivery is scheduled before the 1st of March of that financial year.** If the delivery is scheduled in March of that financial year or scheduled in the next financial year then fund blocking is optional for buyer in current financial year and mandatory only in the next financial year in the 1st week of April.
5. Should it be necessary to amend the Contract, such Amendment in the Contract with due approval of the Competent Authority and acceptance of the Seller/Service Provider (wherever required) shall be made available to the Seller /Service Provider/DDO/PAO/Paying Authority on the GeM portal.
 6. Similarly, in the event of complete/ partial cancellation of the Contract the information would be made available to the Seller/Service Provider, DDO and PAO on the GeM portal. In that event, funds so blocked earlier would be released to the extent of cancelled amount.
 7. The Programme Division/Administrative Unit in the Ministries/Departments shall periodically review the blocked budget to ensure that funds are utilized within the same financial year.
 8. The Performance Security (if any) would be obtained from the Seller/Service Provider as per Contract, and their details would be reflected on the GeM portal by the Buyer.

9. Provisional Receipt of Stores on GeM:

- a. On dispatch of Goods, the Seller would enter the Dispatch Details and date of Dispatch and will upload documentary evidence of Dispatch against each consignment on GeM Portal. All these documents and details shall be shown to the Consignee on his dashboard and shall also be notified to the consignee on his e-mail and on his registered mobile number.
- b. The Seller shall prepare an electronic Invoice, digitally/e-signed, on GeM portal and shall submit the same on-line to the Buyer. GeM portal will send an SMS/ email alert to the Buyer, on submission of Invoice. This Invoice will contain mode of dispatch of goods, dispatched/delivered quantity with date and all inclusive price claimed based on digitally/e-signed Contract. In case Services are procured, the required data as per Contract may be incorporated in the Invoice.
- c. After actual delivery of goods at consignee destination/ milestone achievement (such as completion of installation/ commissioning or training. as defined in the contract)/ service delivery, Seller would enter the actual date of delivery/ milestone achievement/ Service Log-sheet (as applicable) and will upload documentary evidence for the same duly digitally signed / e- signed. All these documents and details shall be shown to the Consignee on his dashboard and shall also be notified to the consignee on his e-mail and on his registered mobile number. In case of Services Contracts, the Service Provider will fill up the required data as per the contract (such as log sheets and /or Invoice etc duly digitally signed/ e-signed).
- d. Immediately upon above entry by Seller I Service Provider regarding delivery of goods/ milestone achievement/ service delivery, an alert will be flashed on the Dashboard of the consignee and an email and an SMS Alert will be sent to Consignee informing that consignee has to mandatorily acknowledge receipt of stores/ milestone achievement/ service delivery through generation of PRC on GeM. The Buyer/Consignee should receive the Goods/Services and issues an online Provisional Receipt Certificate (PRC), within 48 hours, on 'said to contain basis' on the GeM portal with his/her digital signature / e- sign, mentioning the date of Receipt. (From this date of receipt mentioned in PRC, the period of ten (10) days for consignee's/buyer's right of rejection and return policy would be applicable unless otherwise specified in a particular contract)
- e. In case the consignee does not issue PRC within 48 hrs from entry of delivery of goods/ milestone achievement/ service delivery by Seller/ Service Provider, an alert will be flashed on the dashboard of the consignee and an email and an SMS Alert will be sent to Consignee and Buyer informing that consignee has to mandatorily acknowledge receipt of stores/ milestone achievement/ service delivery through generation of PRC on GeM.
- f. After expiry of 72 hrs. from the first alert, another alert will be flashed on the dashboard of the Consignee, Buyer including HoD and an email along with an SMS Alert to Consignee , Buyer, HoD informing that consignee has to mandatorily acknowledge receipt of stores/ milestone achievement/ service

delivery through generation of PRC on GeM and if the time limit of 96 hrs expires from the date of delivery of goods/ milestone achievement/ service delivery as per entry made by Seller/ Service provider and if the consignee does not acknowledge receipt of stores/ milestone achievement/ service delivery by generating PRC or disputes the same by rejecting receipt, it would be presumed that goods have been delivered/milestone achievement I service delivery has been made to consignee and PRC will be auto generated by the system (Deemed PRC).

- g. However, if the consignee does not issue PRC within 96 hrs from delivery of goods/ milestone achievement/ service delivery as per entry made by Seller/ Service provider, GeM System/Portal would auto generate unsigned PRC considering the date of delivery of goods/ milestone achievement/ service delivery as indicated by the seller as deemed date of receipt for issuance of PRC. GeM portal shall also send periodic notifications every 24 hrs. to the Consignee, Buyer and the HoD about issuance of auto generated Deemed PRC for next 48 hrs.
- h. In case the PRC is auto-generated, the consignee shall have the provision on GeM to respond back within 48 hrs, if the goods have not been received or short received recommending to cancel or amend/correct the date of receipt/ quantity in the auto- generated Deemed PRC. In case nothing is reported/ corrected by consignee on the system, it will be presumed that the consignee has nothing to say and the auto- generated Deemed PRC will be considered as final for all purposes.
- i. If it is found at any stage that seller/ service provider has sent/ uploaded wrong information on GeM, based on which PRC has been wrongly auto generated, the seller/ service provider will be dealt severely and should be debarred by GeM for three years.

10. Consignee Receipt and Acceptance of Stores on GeM:

After issue of PRC/ Deemed PRC, the system will start sending an alert on the Dashboard of the consignee and an email and an SMS Alert will be sent as per escalation matrix specified below to issue the CRAC within 10 days:

- a. Level 1 - Upto 3 days - Consignee
- b. Level 2-4 and 5th day - Consignee and Buyer
- c. Level 3 - 6 to 10th day - Consignee, Buyer, HOD

After verification including assessment of quality and quantity of goods /verification of completion of all deliverables defined in the milestone/ completion of service for the defined period, the Consignee(s) will issue an on-line digitally/e-signed Consignee's Receipt & Acceptance Certificate (CRAC) (Goods CRAC/Service CRAC/ Delivery CRAC/ Installation CRAC/ Final CRAC as the case may be) (within 10 days (unless otherwise specified in a particular contract) of date of receipt indicated in PRC/deemed date of receipt as indicated in Deemed PRC. The CRAC would clearly indicate the Order quantity/ milestone achievement/ service delivery, rejected quantity/ unacceptable milestone achievement /unacceptable service delivery (if any, with reasons for rejection

including shortages/damaged/unaccepted quality), quantity/ milestone achievement/ service delivery accepted and cleared for payment. However, if the consignee does not issue CRAC within 10 days (unless some other time line is specified in a particular contract for issue of CRAC), on 11th day from the date of receipt/ deemed date of receipt of quantity/ milestone achievement / service delivery as indicated in PRC, GeM System/Portal would auto generate unsigned CRAC which, backed with digitally/e-signed PRC or deemed PRC based on SellerEvidence for the corresponding quantity/ milestone achievement/ service delivery shall be taken as deemed acceptance for payments in lieu of the requirement of digitally/e-signed CRAC. This will be made available on GeM to the Buyer/ Seller and also the concerned DDO (if applicable) and PAO/Paying Authority. The GeM portal would generate a unique serial number for CRAC relating to concerned DDO (if applicable) & PAO/Paying Authority, so that the payments are made seriatim.

In case the CRAC is auto-generated, the consignee shall have the provision on GeM to cancel or amend the auto-generated CRAC within 72 hrs, if the goods have not been accepted or found defective/ short received. In case nothing is corrected by consignee on the system, it will be presumed that the consignee has nothing to say and the auto-generated CRAC will be considered as final for all purposes including payments.

11. After generation of CRAC, the Buyer shall prepare 'Payment advice' on GeM Portal, indicating any contractual deductions such as penalties for violation of Service Level Agreement (as applicable)/Liquidated Damages for delayed supplies/ milestone achievement/ service delivery etc. which will be used by GeM portal to compute the net amount payable for the accepted quantity/milestone achievement/service delivery after factoring in the contractual deduction(s) and generate claims for payments digitally/e-signed by the Buyer. This claim for payment shall be made available to the DDO on GeM Portal and the requisite data will also be pushed online in the PFMS. DDO will log into PFMS and generate the Bill against the said claims and forward the same to the PAO/Paying Authority for payment, after deducting any statutory deductions including TDS as applicable.

12. It is obligatory to make payments without any delay for purchases made on GeM. In no case should it take longer than the prescribed timelines. The timelines after Consignee Receipt and Acceptance Certificate (CRAC) issued on-line and digitally/e-signed by consignee, will be two (2) working days for Buyer, one (1) working day for concerned DDO and two (2) working days for concerned PAO for triggering payment through PFMS for crediting to the supplier's account. In case of return of Bills by PAO/Paying authority, the discrepancies should be addressed by concerned Buyer/DDO within one working day and thereafter on re- submission of Bill the PAO should also not take more than one (1) working day for triggering payment to the Seller/ service provider. Any matter needing a resolution will be escalated to the next higher level in each agency (Buyer, DDO and PAO) where the matter should be resolved within 24 hours. In the entire process, time taken for payment should not exceed ten (10) days including holidays.

13. After online pre-check of all relevant documents, PAO/Paying Authority shall debit the Government account, releasing the corresponding payment through PFMS/ to be

credited into the bank account of the Seller/service Provider. The payment so released shall be credited to the Seller/Service Provider account within 24 hours (excluding public holidays), by the Bank. SMS alerts shall be sent to the Seller/Service Provider and Buyer after the payment is authorized by PAO and also after the confirmation of the payment by the Bank. The payment authorization as well as payment confirmation details shall be shared by PFMS on the GeM portal. The PAO/Paying Authority and DDO shall comply with the provisions of General Financial Rules for budget implementation.

14. In case of return of Bill, if necessary by PAO/Paying Authority, it should be made online with all queries/discrepancies/reasons for rejections indicated in one go with the approval of competent authority, to the DDO/Buyer for the needful corrections at their end.

15. The DDO shall also be responsible for issuing TDS certificate (as per Income Tax Act, 1961 amended from time to time) to the Seller after release of the payment to the Seller/Supplier. The DDO shall also be responsible for deduction of TDS on GST as per GST provisions and to deposit the same with the Govt, as per GST rules and issue Form GSTR 7A to the person whose TDS has been deducted.

16. GeM System/Portal would also have on-line provisions for generating supplementary Invoice(s) for claim/refund of statutory changes in Duties and taxes, if any, as above. A provision for all types of refunds/claims should be available on-line through PFMS.

17. In terms of the provisions of the Information Technology Act 2000 as amended from time to time, digitally/e-signed online documents generated on GeM shall be treated at par with ink-signed documents for release of payment to the Seller/Service Provider and no ink signed paper/documents shall be demanded/insisted.

18. The multi-year liabilities so created as referred to in Para 9.7.7 (vi) (A) (1) (h) above shall be reviewed regularly by the Programme Division/Administrative unit in consultation with the Financial Adviser. The consolidated information on the total committed liabilities, year-wise, shall be submitted by the Financial Adviser to the Budget Division, Department of Economic Affairs, Ministry of Finance for suitably reflecting in the Budget Estimates for the relevant financial year and in the Medium Term Expenditure Framework (MTEF).

19. For all contracts placed through GeM, the payment through PFMS to all Sellers/ Service Providers must be released online only against electronic bill generated on GeM. No offline payment should be made in such cases to avoid double payment. Only in exceptional cases such as non-availability of the GeM platform or long shutdown of internet services at Buyer location or similar force majeure conditions, such off-line payments can be resorted to subject to the condition that immediately after resolution of the problem, necessary entries would be made on-line in GeM portal to obviate the possibility of double payment.

B. Payment for Non-PFMS Agencies/ Entities (NPAE)

1. Non-PFMS Agency/ Entity (NPAE) is a Government of India (GoI) not using PFMS for its payments of transactions and having their own payment system for making payments against contracts placed for goods/services placed by the NPAE on GeM. All NPAE shall open & operate a special purpose account namely GeM Pool Account for the purpose of ensuring prompt payment to Seller/Service Provider of GeM who supply Goods/ Services to the NPAE through GeM.
2. Accordingly, all the Organizations/ Departments including CPSUs, Municipalities, Educational Institutions, Autonomous bodies, Societies, etc. not operating through PFMS shall be covered under these instructions. These organisations are hereby directed to open, operationalize and operate a GeM Pool Account (GPA) for all procurement. GPA is a special purpose bank account (interest bearing savings/current Account) opened, operated and controlled exclusively by each NPAE. GeM Pool Account shall be mandatory for all procurement irrespective of value. The GeM Pool Account shall be opened, operated and controlled exclusively and completely by the buyer entity/agency subject to certain restrictions on withdrawals of funds as explained in succeeding paragraphs. The Account shall carry interest applicable to savings/ current account. Such account shall be opened in any scheduled bank having already integrated the pool account with GeM.
3. The following are the core elements of GPA that should be incorporated during the opening and operations/ procurement stages:
 - a. The NPAE will open the GPA (as a savings or current account) which will be utilized by buyer through the online integration of Bank with the platform owned and maintained by GeM SPV, as per Service Level Agreement (SLA), and solely for procurement of goods and services on GeM.
 - b. The terms and conditions of procurement on GeM will be part of the operations agreement between the bank and the NPAE.
 - c. The role of the bank will be limited to ensuring operations of the account on the instruction of the NPAE through the authorized NPAE nodal officer for GeM/ buyer.
 - d. Real time details of all operations of the account will be shared by the bank, in a mutually accepted format (to be amended from time to time) with the NPAE, only through the GeM Platform.
 - e. Once a sub-account/ transaction specific account is credited with an amount, the NPAE cannot withdraw this amount, apart from transfer to the designated Seller/Service Provider, till such a time that the transaction is live.
 - f. Any withdrawal/transfer by the NPAE from this account, except for payment to the Seller / Service Provider, would be permitted in the following conditions.
 - a) Order cancellation
 - b) Order rejection
 - c) Refund

All the above situations would first be required to be enabled/ flagged on the GeM Platform for the NPAE to be able to act accordingly.

4. While procuring goods & services through GeM, the NPAEs should credit 100% of the projected Contract Value in case of Goods Contract in their GeM Pool Account before award of contract. In cases of Services, amount should be credited for one payment cycle as defined in the contract and before releasing payment for any cycle, the funds required for the next payment cycle should be credited so as to ensure availability of payable funds for the next payment cycle. Payment so credited will not be withdrawn for any other purpose other than the one for which the amount is credited into GeM Pool Account.
5. After placement of contract on GeM, the process for PRC and CRAC will be same for NPAE category also as indicated in Para 9.7.7 (vi) (A) (9) above regarding Provisional Receipt of Stores on GeM and Para 9.7.7 (vi) (A) (10) Consignee Receipt and Acceptance of Stores on GeM for PFMS Buyers.
6. After issue of CRAC, NPAE Nodal Officer shall issue an advice without delay to the bank to release actual amount payable to Seller/ Service Provider as per terms of contract from the GeM Pool Account. On authorization, the bank should transfer the prescribed amount to the Seller/Service Provider supplier mapped in the transaction.
7. In case of a Service level agreement (SLA) breach on the part of the NPAE in terms of payments to the Seller/Service Provider, GeM will intimate the buyer and bank of the same. Post such intimation, and non-action on the part of the NPAE with respect to payment transfer, bank will release payments for the delivery of goods at consignee destination/ milestone achievement (such as completion of installation/ commissioning or training etc. as defined in the contract)/ service delivery as notified in the terms and conditions of procurement on GeM to the Seller/ Service Provider mapped in the transaction. Such a provision is required to be incorporated in GPA and should be considered as a standing instruction from the NPAE to the bank. The residual amount cannot be withdrawn/ transferred by the NPAE, in such cases.
8. In case, even after 10 days of issue of Consignee receipt and acceptance certificate (CRAC)/ auto generated CRAC, the buyer has not initiated the payment process through the GeM platform, a payment trigger will be automatically generated for payment equivalent to 80% of the corresponding quantity/ milestone achievement/ service delivery deduced by the system as per CRAC. Simultaneously intimation will be sent to the HoD, buyer and NPAE Nodal officer for GeM, regarding the release of payment, at their risk and cost in line with the terms and condition (T&C) and SLA of procurement on GeM. The residual payment of 20% is to be processed by the buyer within 35 days after adjusting for any statutory deduction and damages, failing which after 35 days, the same will be released to the Seller/ Service Provider automatically through an alert to the bank by the GeM Platform, after statutory deductions and any system known deductions.
9. Unutilized funds after closure of the Contract and interest accrued on the credited amount will be at the disposal of nominated NPAE Nodal officer, who may advise banker for further action as deemed fit.
10. The Steering Committee on GeM of each Ministry should monitor the implementation of these instructions regarding operationalization of GeM Pool Account.

11. Ministries/ Departments of Government of India are accordingly requested to issue necessary instructions to all Non-PFMS Agencies/ Entities under their control.
- i) In case any Non PFMS Agency/ Entity decides with the approval of their Competent Authority to have integration of their on-line payment Systems with functionality for Blocking of Funds etc. as per PFMS system of payments, the Payment procedures outlined for PFMS in Para 9.7.7 (vi) (A) shall be mutatis mutandis applicable to them.
 - ii) Currently, for unlocking of funds, especially during the fag end of the financial year, buyers need to send emails etc. to GeM. Thereafter, GeM manually unlocks the payments. GeM will automate this whole process.
- 11.7.8 It is mandatory for a buyer to generate a “GeM Availability Report and Past Transaction Summary” (GeMAR&PTS)⁵⁰ with a unique ID on GeM portal using his login credentials on GeM for procurement outside GeM (for example for procurement through Central Public Procurement Portal). The Past Transaction Summary will be provided, where available. “GeMAR&PTS” shall be a pre-requisite for arriving at a decision by the competent authority for procurement of required goods and services by floating a bid outside GeM and its unique ID would be required to be furnished on the publishing portal along with the tender proposed to be published.
- 11.7.9 Purchase of goods without quotation can be resorted for value upto Rs. 25,000/- only on each occasion may be made without inviting quotations or bids on the basis of a certificate to be recorded by the competent authority, only when the required goods are not available on GeM.
- 11.7.10 In case a certain item is not available on the GeM portal,⁵¹ Purchase of goods costing above [Rs.25,000 (Rupees twenty five thousand only) and upto Rs.2,50,000/- (Rupees two lakh and fifty thousand only)] on each occasion may be made on the recommendations of a duly constituted Local Purchase Committee consisting of three members of an appropriate level as decided by the Head of the Department. The committee will survey the market to ascertain the reasonableness of rate, quality and specifications and identify the appropriate supplier and will jointly record a certificate before placement of the purchase order.
- 11.7.11 Where an item is available on GeM and Ministry/ Department/ Organization wants to buy outside the GeM in view of any compelling circumstances, the approval of Standing Committee of GeM (SCoGeM) and Secretary concerned shall be required⁵².
- 11.7.12 Rule 149 of GFR provides for the mandatory procurement of common use Goods and Services by Ministries or Departments for Goods or Services available on GeM. Hence only in case of goods and services (of required specification or within required delivery period etc.) are not available on GeM, the procuring entity can resort to Rule 154 and 155 of GFRs i.e. procurement without quotation or procurement on the recommendations of a duly constituted Local Purchase Committee⁵³. However, it is mandatory for a buyer to generate a “GeM Availability Report and Past Transaction Summary” (GeMAR&PTS)⁵⁴ with a unique ID on GeM portal using his login credentials on GeM for procurement outside GeM.

11.8 Procurement Proposal (Concept Paper) for other (non-consultancy)

Services

The steps for initiating procurement (outsourcing) of Other (Non-consultancy) Services, is similar to that described in para 1.15 in Chapter 1. *(Please refer to Annexure 3, for a suggested format)*

11.9 Obtaining Final Administrative and Budgetary Approvals

Before a final administrative and budgetary approval is taken, a detailed Activity Schedule and Costestimate is required to be prepared in following manner:

11.9.1 Activity Schedule and Other Requirements

The objectives of the Activity Schedule are:

- i) To provide sufficient information on the quantities of Services to be performed to enable bidsto be prepared efficiently and accurately; and
- ii) When a Contract has been entered into, to provide a priced Activity Schedule for use in the periodic valuation of Services executed.

Besides detailing the activities, quantum and time frame, Activity Schedule should contain thefollowing sections also:

- a) **Description of Services:** A brief description of service required is important information that would help the bidders understand the service requirement. It should cover backgroundabout the Procuring Entity's organisation and about the project/ service. The Purpose and Service Outcome statement should be included in the description of services (as finalised for initiating the procurement - Para 1.15, Chapter-1) to help the service providers understand the requirement.
- b) **Itemized Activity Schedule:** In order to attain objectives of the Activity Schedule, Services should be itemized in the Activity Schedule in sufficient detail to distinguish between the different classes of Services, or between Services of the same nature carried out in differentlocations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and content of the Activity Schedule shouldbe as simple and brief as possible. All information relevant for the bidder to quote a price may be included e.g. -the frequency and quantum and time-frame/ duration of completion of activities to be performed. In activity schedule containing scores of items, evaluation canbe simplified if the system used in Works contracts is borrowed, if feasible, where Schedule of rates (SoR) for each activity is specified in the bid documents by the Procuring Entity and only percentage +/- above the SoR (separately for different Schedules or combined) is asked to be quoted by the bidders.
- c) **Labour/ Personnel Activity Schedule:** If labour/ personnel are used in the activity, these may be quantified specifying place, shifts and frequency of utilization in the Activity Schedule. In case any key professionals or Project Manager is required, their qualification and experience required may also be mentioned. Any relievers and leave reserve for deploying the personnel should be included in the rate for such personnel and would not be separately payable.
- a) **Material Schedule:** In case any Materials/ Consumables/ tools of trade are to be consumed/ deployed, a Separate Materials Schedule should be included, indicating the specification and quantity of such materials/ consumables/ tools to

be consumed/ deployed per unit activity/ day/ location/ per manpower deployed. Price of all these materials/ tools etc is to be shown as a separate lump-sum cost in the financial bid by the bidder.

- b) **Essential Equipment Schedule:** Any essential equipment, machinery (Trucks, Cranes, Washing Machines, Vessels/ crafts, plant and machinery etc) that the service provider must have and should deploy as a qualifying requirement must be mentioned along with specification, capacity, age of equipment etc. It should be ensured that operators for such equipment must be mentioned as key personnel;
- c) **Performance Specifications, Drawings:** The performance specification or drawings if necessary should be specified for each activity, materials, tools and machines to be used in the activity. Any reporting requirement, periodic meetings or other submissions must be part of the activity schedule.
- d) **Statutory and contractual obligations to be complied with by the contractor:** Service provider mostly works within the premises of Procuring Entity, along with staff of Procuring Entity. Many services are subject to various statutory provisions relating to labour, taxation, Workmen Safety, Child and Women Labour, Private Security Agencies, Environmental Protection, Mining, Forest clearance, Employment reservations etc. The bidder must have Service Tax Number, ESI, EPF Registration Certificate, Registration Declaration of ownership under Indian Registration Act 1908 and Labour License and PAN (Income Tax). Moreover the Procuring Entity himself may have its own regulation about safety, security, confidentiality etc. All such statutory and contractual obligations must be listed, so that price implications and compliance is taken care of by the bidder. In case of security services contracts, the bidder must have the valid license to run the business of Private Security Agency in the state issued by the appropriate authority for operating Security Services.
- e) **Facilities and Utilities to be provided by the Procuring Entity to service provider at Site:** It should be mentioned, if any facility/ utility (Operation Manuals, Emergency Medical, Room, Furniture, Electricity connection, Water connection) etc would be made available to the successful bidder to carry out the service. In case it is proposed to charge the Electricity/Water supplied to the service provider, the same may be mentioned, including the rate of charges. This aspect has a great bearing on the cost that will be quoted by the bidders. This can have implications in vitiating the selection process either way – a facility to be provided may not get declared or a declared facility may not be provided ultimately. So great care and reality check is necessary, while preparing this Statement. Specially mention facilities and utilities which will not be provided, or the facilities which would be provided on chargeable basis. It should be clearly mentioned that the service provider will not be allowed to use any of Procuring Entity's facility/ area which are not listed in this section.
- f) **Institutional Arrangements and Procedure for Review of Work of consultant after the Award of Contract:** Institutional arrangements like the placement in a Department, name of project manager and chain of command for reporting may be specified. Process of Review of Service Outcomes and deployment of personnel and resources should be clearly brought out.

A template for Activity and other Schedules is given at Annexure 7.

11.9.2 Estimating Costs, Setting the Budget, and seeking Approval.

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: managerial and staff time and physical inputs (for example, materials, consumables, tools and machines). Costs shall be divided into three broad categories:

- i) Remunerations for Personnel deployed;
- ii) Reimbursable: (Travel, logistics, Consumable, Material, Tools, Hiring of third party services etc.);
- iii) Administrative and Miscellaneous (Mobilisation, de-mobilisation, Temporary Structures, Administrative expenses, office and IT equipment, contingencies, financing costs, Costs for hiring/ depreciation/ financing of machinery and equipment etc).

In general, staff remuneration rates include basic salary, social charges, overheads, fees or profit and allowances. Profit element, Taxes and duties should be added to the estimated costs.

11.9.3 Final Administrative and Budgetary Approvals

The Activity Schedule shall be compatible with the available budget. The most important step is to determine whether all tasks required to achieve the desired output have been included. The next step is to determine whether adequate budget has been allocated to implement the assignment as designed. Since the budget may be fixed or limited, a series of iterations may be required before a final, acceptable Activity Schedule is formulated. CA's approval may be taken for the Procurement before proceeding ahead. After administrative approval provision may be made in the Budget or if that is not feasible, additional confirmation at the time of seeking Administrative approval may be taken from the CA for inclusion in the Revised Estimate stage of Budget. Indent may be initiated after such budgetary provisions/ confirmations. Procurement should be initiated only after such approvals and budgetary provisions.

11.10 Procedure for Single Source Selection (SSS)

Should it become necessary, in an exceptional situation to outsource a job to a specifically chosen contractor, the CA's approval may be taken. In such cases the detailed justification, the circumstances leading to the outsourcing by choice and the special interest or purpose it shall serve shall form an integral part of the proposal. Threshold Limits for use of SSS method of Selection may be prescribed in SoPP.

11.11 Procedure for Small Value and emergency Procurements of Other (Non-consultancy) Services

In many small value procurement of other services, the service provider may neither be capable of handling the bidding process, nor would this be a cost-effective process for the Procuring Entity. For procurement upto Rs 25,000 (twenty five thousands), the 'Direct Procurement without Quotation' mode of procurement used in Procurement of goods may very well be utilised in such cases. Similarly for procurement of services upto Rs 2.5 (Rupees two and a half) Lakhs, 'Direct Procurement by a Purchase

Committee' mode as used in procurement of Goods may be utilised. In all such modes of procurement, the procedure prescribed in the Manual for Policies and Procedures for Procurement of Goods may be followed. Please refer to Annexure 8 & 9 for certificates to be recorded for such procurements.

11.12 Procedure for Procurements below Rs 10 (Rupees Ten) Lakhs

For procurements below Rs. 10 (Rupees Ten) lakh, the User should prepare a list of likely and potential service providers on the basis of formal or informal enquiries from Ministries or Departments and Organisations involved in similar activities, scrutiny of 'Yellow pages', and trade journals, if available, web site etc. The Procuring Entity should scrutinise the preliminary list of likely contractors as identified above, shortlist the prima facie eligible and capable contractors and issue RfP to these shortlisted firms on a limited tender enquiry basis as per standard practice. The number of the contractors so identified for issuing RfP should be more than three. Services which are available on GeM have to be mandatorily procured through that portal (please refer to 9.7).

11.13 Procedure for higher Value of Procurements

For Procurements above the Rs 10 (Rupees Ten) lakh, the Procuring Entity should issue advertised single stage tender enquiry asking for the offers by a specified date and time etc. Advertisement in such case should be given on Central Public Procurement Portal (CPPP) at www.eprocure.gov.in and on Government E-Market (GeM). An organisation having its own website should also publish all its advertised tender enquiries on the website. The advertisements for invitation of tenders should give the complete web address from where the bidding documents can be downloaded. Attention of known reputed service providers (as ascertained as per para above) may also be separately drawn wherever possible. Services which are available on GeM have to be mandatorily procured through that portal (please refer to para 9.7 above).

11.14 Preparation of the Request for Proposals (RfP)

In procurement of other (non-consultancy) Services, a Standard RfP document should be basis for preparation of Bid Documents. There are variations in the way information and sections in standard RFPs are formulated but essential information/sections are as follows:

- i) A letter of invitation (LoI);
- ii) Instructions to Bidders (ITB) and data sheet (which contains assignment specific information);
- iii) Qualification/ Eligibility Criteria for service providers;
- iv) Activity Schedules and other Requirements
 - a) Description of Service
 - b) Activity Schedule
 - c) Manpower Schedule: Assessment of Manpower for Deployment
 - d) Materials Schedule (indicating the specification and quantity of such materials/ consumables/ tools to be consumed/ deployed per unit activity/day/ location/ per manpower deployed).
 - e) Essential Equipment: Any essential equipment, machinery that the service provider must have as a qualifying requirement along with specification, capacity, age of equipment etc.;

- f) The statutory and contractual obligations to be complied with by the contractor.
- g) Services & Facilities to be Provided by the Procuring Entity and respective obligations of the Procuring Entity and service provider
- v) General Conditions of Contract (GCC);
- vi) Special Conditions of Contract (SCC);
- vii) Formats
 - a) service provider's Bid Cover Letter
 - b) Qualification Information
 - c) Standard formats for the technical proposal;
 - d) Standard Format for the Financial Proposal
 - e) Letter of Acceptance
 - f) Contract Form
 - g) Securities Formats
 - 1. Bid Security (Bank Guarantee)
 - 2. Bank Guarantee for Advance Payment
 - 3. Performance Security (Bank Guarantee)

11.15 Important Provisions of ITB

11.15.1 Eligibility Criteria: Eligibility for firms to be considered as responsive bid in procurement of Other (Non-consultancy) Services should be specified. For example:

- i) The bidder must be registered under appropriate authorities i.e. must be registered with Service Tax authorities/Income Tax/EPF/ESI authorities/ PSARA/ PAN etc;
- ii) Joint Ventures (JV) are normally not permitted in the procurement of Other (Non-consulting) services;
- iii) Must not have been under any declaration of ineligibility by any authority. A declaration to the effect should be furnished;
- iv) A consistent history of litigation or arbitration awards against the Applicant may result in disqualification;
- v) Each Bidder shall submit only one Bid for one RfP. The system shall consider only the last bid submitted through the e-procurement portal. In case of Packaging/ Slicing of Services, it should be clarified, how multiple bids and discounts by a bidder in different slices would be considered.

11.15.2 Qualifying criteria to be met by bidders to qualify for award of the Contract may be specified. Although the qualification criteria would depend on the type of service, its complexity and volume, but a sample qualifying criteria is given below:

i) Financial Capability:

- a) Average Annual financial turnover of related services during the last three years, ending 31st March of the previous financial year, should be at least 30% (thirty percent) of the estimated cost.
- b) Liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contract, of no less than the amount specified in the BDS.

ii) Past Experience:

- a) The bidder must have at least three years' experience (ending month of March prior to the bid opening) of providing similar type of services to Central/State Government/ PSUs/ Nationalised Banks/ Reputed Organisations. Services rendered with list of such Central/State/ PSUs/ Nationalized Banks with duration of service shall be furnished.
- b) The bidder must have successfully executed/completed similar Services (definition of "similar services" should be clearly defined), over the last three years i.e. the current financial year and the last three financial years: -
 - 1. Three similar completed services costing not less than the amount equal to 40% (forty percent) of the estimated cost; or
 - 2. Two similar completed services costing not less than the amount equal to 50% (fifty percent) of the estimated cost; or
 - 3. One similar completed service costing not less than the amount equal to 80% (eighty percent) of the estimated cost.

iii) Equipment and Managerial Capability:

- a) Ownership/ proposals for the timely acquisition (own, lease, hire, etc.) of the essential equipment listed in the BDS;
- b) a Contract Manager with five years' experience in Services of an equivalent nature and volume, including no less than three years as Manager;

11.15.3 Qualification Documents to be submitted: To judge their qualification, all bidders should be asked to include the following information and documents with their bids:

- i) Copies of original Registration certificate documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the Bid to commit the Bidder. Appropriate business licences/ registrations:
 - a) Service Tax registration certificate
 - b) PAN number
 - c) Copies of EPF, ESI, Labour license
 - d) Copy of valid license under the Private Security Agencies (Regulation) Act, 2005 or the similar Act/ Rules promulgated by State in which the service is performed (in case of Security Service)
- ii) Total monetary value of Services performed for each of the last five years;
- iii) Copies of work orders and experience in Services of a similar nature and size for each of the last three years, and details of Services under way or contractually committed; and names and address of clients who may be contacted for further information on those contracts;
- iv) Evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources);
- v) Audited financial Statements for the last three years (Copies of the Profit and Loss (P/L) statements along with Balance Sheet for the concerned period);
- vi) Bank Account details;
- vii) Authority to seek references from the Bidder's bankers;
- viii) Information regarding any litigation, current or during the last five years, in which the Bidder is involved, the parties concerned, and disputed amount;

and

- ix) Proposals for subcontracting components of the Services amounting to more than 10(ten)percent of the Contract Price.

11.15.4 Site Visit: The Bidder, at the Bidder's own responsibility and risk, may be encouraged to visit at their own cost, and examine the Site of required Services and its surroundings and obtain all information that may be necessary for preparing the Bid and entering into a contract for the Services.

11.15.5 Restrictions regarding Personnel Deployed: The quoted rates shall not be less than the minimum wage fixed/notified by the State Government – where the service is performed and shall include all statutory obligations. However bids without any element of cost over and above such minimum wage (or below it) shall be treated as 'Nil' price quotation and would be rejected. The service provider shall be liable for all kinds of dues payable in respect of all personnel provided under the contract and the Procuring Entity shall not be liable for any dues for availing the services of the personnel. The service provider should ensure that persons to be deployed are not alcoholic, drug addict and not indulge in any activity prejudicial to the interest of the Procuring Entity. The service provider shall ensure to get the Police verification for all the manpower deployed by them and the contractor should ensure that the manpower deputed should bear good moral character.

11.15.6 Workmen Safety and Insurance: The service provider shall alone be fully responsible for safety and security and insurance or life insurance of their personnel who is working on the operation and maintenance works. The service providers (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at their (or the Subcontractors', as the case may be) own cost but on terms and conditions approved by the Procuring Entity, insurance against the risks, and for the coverage, as shall be specified in the SCC; and (b) at the Procuring Entity's request, shall provide evidence to the Procuring Entity showing that such insurance has been taken out and maintained and that the current premiums have been paid. The service provider shall provide and ensure sufficient protection gears like safety shoes, hand gloves, ladders, etc. are being used by their workers while carrying out works. The Procuring Entity shall not be liable for any compensation in case of any fatal injury/death caused to or by any man power while performing/discharging their duties/ for inspection or otherwise.

11.15.7 Liquidated Damages for Delay in Performance: The service provider shall pay liquidated damages to the Procuring Entity at the rate per day stated in the SCC for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the SCC. The Procuring Entity may deduct liquidated damages from payments due to the service provider. Payment of liquidated damages shall not affect the service provider's liabilities.

11.15.8 Penalty for non-performance: If the service provider has not corrected a Defect within the time specified in the Procuring Entity's notice, a penalty for Lack of performance will be paid by the service provider. The amount to be paid will be calculated as a percentage of the cost of having the Defect corrected, assessed as described in SCC.

11.15.9 Filling up the Financial Bid by the Bidders: The Bidder should be asked to fill in

rates and prices for all items of the Services described in the in the Activity Schedule. Items for which no rate or price is entered by the Bidder will not be paid for by the Procuring Entity when executed and shall be deemed covered by the other rates and prices in the Activity Schedule. The priced Activity Schedule contains sections on Remuneration for Staff deployed, Reimbursable Expenses and Miscellaneous Expenses. All duties, taxes, and other levies payable by the service provider under the Contract, or for any other cause, as in the month prior to the month of the deadline for submission of bids, should be included in the total Bid price submitted by the Bidder. For the purpose of determining the remuneration due for additional Services, a breakdown of the lump-sum price shall be provided by the Bidder. Bidding Documents should include a clause that “if a firm quotes NIL charges/ consideration, the bid shall be treated as unresponsive and will not be considered”.

11.15.10 Price Adjustment

In case the duration of the contract is expected to exceed 18 (eighteen) months for a time- based contract or an Indefinite delivery contract, a price adjustment provision for the remuneration rate should be included in the contract based on the Consumer Price Index in the country. Lump-sum contracts shall not generally be subject to price adjustment except for small value multi-year contracts (for example, for auditors). Short-term contracts where the delivery period does not extend beyond 18 (eighteen) months should normally be concluded with a firm and price fixed by inviting tenders accordingly. However, even for shorter deliveries, the price adjustment [or Price Variation Clause (PVC)] may be stipulated for items with inputs (raw material, man power, etc.), prone to short-term price volatility - especially for critical or high value services – otherwise there is a possibility of the contract failing or the purchaser having to pay a higher price if prices fall.

Where it is decided to conclude the contract with a variable price, an appropriate clause incorporating, inter-alia, a suitable price variation formula should also be provided in the tender documents, to calculate the price variation between the base level and scheduled delivery date. It is best to proactively provide our own PVC in the tender document to discourage different bidders quoting different formulae and different base dates, which may lead to problems on bringing their prices on a common comparable footing.

The variations are to be calculated periodically by using indices published by Governments/ chambers of commerce/London Metal Exchange / any other neutral and fair source of indices. Suitable weights are to be assigned to the applicable elements, that is, fixed overheads and profits, material and man power in the price variation formula.

The following are important elements of PVC:

- a) The price agreed upon should specify the base date, that is, the month and year to which the price is linked to enable variations being calculated with reference to the price indices prevailing in that month and year;
- b) The price variation formula must also stipulate a minimum percentage of variation of the contract price, only above which the price variation will be

admissible (for example, where the resultant increase is lower than, say, two per cent of the contract price, no price adjustment will be made in favour of the supplier);

- c) The price variation clause should provide for a ceiling on price variations, particularly where escalations are involved. It could be a percentage per annum or an overall ceiling or both;
- d) Where advance or stage payments are made there should be a further stipulation that no price variations will be admissible on such portions of the price, after the dates of such payment;
- e) Where deliveries are accepted beyond the scheduled delivery date subject to levy of liquidated damages as provided in the contract. The LD (if a percentage of the price) will be applicable on the price as varied by the operation of the PVC;
- f) No upward price variation will be admissible beyond the original scheduled delivery date for defaults on the part of the supplier. However, a downward price variation would be availed by the purchaser as per the denial clause in the letter of extension of the delivery period;
- g) Price variation may be allowed beyond the original scheduled delivery date, by specific alteration of that date through an amendment to the contract in cases of force majeure or defaults by Government;
- h) Where contract execution depends on imported (subject to customs duty and foreign exchange fluctuations) and/or locally sourced goods/ works/ services (subject to excise duty and other duties and taxes), the percentage and element of duties and taxes included in the price should be specifically stated, along with the selling rate of foreign exchange element taken into account in the calculation of the price of the imported item;
- i) The clause should also contain the mode and terms of payment of the price variation admissible; and
- j) The buyer should ensure a provision in the contract for the benefit of any reduction in the price in terms of the PVC being passed on to him.
- k) An illustrative PVC clause is available in Annexure 2F.
- l) Care should be exercised in contracts providing for price variation to finalise the price before final payment is made, after obtaining data and documents in support of claims for escalation, if any. Where no such claims are submitted by the suppliers, an examination of whether there has been a downward trend in the cost, which the contractor may not bring out, is required. At any rate, an undertaking should be obtained from the contractor to the following effect in case it becomes necessary to make the final payment before he has submitted the required data/documents related to the PVC:

“It is certified that there has been no decrease in the price of price variation indices and, in the event of any decrease of such indices during the currency of

this contract, we shall promptly notify this to the purchaser and offer the requisite reduction in the contract rate.”

- m) Notwithstanding the above formalities, it should be appreciated that it is in the interest of the purchaser to be vigilant about downward variation and it is, therefore, the basic responsibility of the purchase officers to make sure that the benefits of downward variation, wherever it occurs, are fully availed of.

11.16 Standard Formats for Technical and Financial Proposals

- i) The standard formats for technical proposals should include:
- a) service provider's Bid Cover Letter (including eligibility, following Code of Integrity in Public Procurement - CIPP);
 - b) Power of attorney;
 - c) Qualification Information with enclosures;
 - d) Write up on Bidder's Organisation, confirmation of compliance with (or deviations from) Description of Services, Activity Schedule, Essential Equipment Schedule, Manpower/ Team, Statutory Obligation and Facilities to be provided by the Procuring Entity, Statutory and Contractual requirements, Respective obligations of Procuring Entity and service provider, Contract For, GCC and SCC; etc. and
 - e) Enclosures: Cost of Bid/ Bid Processing Fee/ Bid Security
- ii) The standard formats for a financial proposal include:
- a) Financial Bid Format;
 - b) Summary Price Schedule;
 - c) Priced Activity Schedule;
 - d) Priced Material Schedule;
 - e) Priced Miscellaneous Schedule (including administrative costs, Essential Equipment, Operating Manpower);
 - f) Breakdown of Contract Prices

11.17 Receipt of Bids, Evaluation and Award of Contract

11.17.1 Receipt and opening of Bids is done in a manner similar to procurement of other categories. Annexure 5 may be used mutadis-mutandis for format of Bid Opening Attendance cum Report

11.17.2 The Procuring Entity should evaluate, segregate, rank the responsive bids and select the successful bidder for placement of the contract, in a manner similar to Procurement of Goods/Works. Procuring Entity will award the Contract to the Bidder whose Bid has been determined as the lowest evaluated Bid price, provided the offer is determined in accordance with the bid documents to be:

- i) Substantially responsive;
- ii) Eligible bidder;
- iii) Meets the minimum Technical/ qualification standards

11.17.3 If, the contract is being let on a “slice and package” basis, the lowest evaluated Bid Price will be determined when evaluating the contract in conjunction with other contracts to be awarded concurrently, taking into account any discounts offered by the

bidders for the award of more than one contract.

11.17.4 The Procuring Entity reserves the right to accept or reject any Bid, and to cancel the bidding process and reject all bids, at any time prior to the award of Contract, without thereby incurring any liability to the affected Bidder or bidders or any obligation to inform the affected Bidder or bidders of the grounds for the Procuring Entity's action.

11.17.5 Notification of Award, Performance Security and Signing of the Contract also follows same procedure as in other categories of procurements.

A format of Tender Evaluation and Report is given in Annexure 10. (Rule 203 of GFR 2017)

11.17.6 Quality-cum-cost based Selection (QCBS) for Works and Non-Consultancy Services⁵⁵

11.17.6.1 Procuring entities are hereby allowed to use QCBS for procurement of works and non-consultancy services in the following cases:

- (i) where the procurement has been declared to be a Quality Oriented Procurement (QOP) by the competent authority or
- (ii) for procurement of Non-Consulting Services, where estimated value of procurement (including all taxes and option clause) does not exceed Rs 10 crore.

Note: In cases where estimated value was less than Rs 10 crore, but on tendering, following QCBS process, it is proposed to place contract for more than Rs 10 crore, the following procedure shall be adopted:

- (a) *In case the difference between estimated value (including taxes etc as above) and value of the proposed contract (including taxes etc) is less than 10% of the estimated value, there will be no bar on placement of contract.*
- (b) *In all other cases, the procurement process is to be scrapped and restarted either as QOP or on non QCBS basis.*

The principles of QCBS shall be as provided in Rule 192(i), (ii) and (iii) of the GFR. However, the maximum weight of the non-financial parameters shall in no case exceed 30%.

11.17.6.2 The Competent Authority for allowing QCBS shall be as follows:-

- (i) For declaring a procurement as QOP:
 - a) Where the procuring entity/ project executing authority is covered by Rule 1 of GFR, the Secretary of the Ministry/ Department, to which the procuring entity belongs.
 - b) Where the procuring entity is a CPSE, the Board of Directors of the CPSE.
- (ii) For Non-consulting Services not exceeding Rs.10 crore in value:
 - a) Where the procuring entity is covered by Rule 1 of GFR, by the officer or authority two levels above the officer/ authority competent to finalize the particular procurement, or the Secretary of the Ministry/ Department whichever is

lower.

- b) Where the procuring entity is a CPSE, the authority or officer two levels above the officer competent to finalize the particular procurement, or the Board of Directors of the CPSE whichever is lower.

11.17.6.3 In all cases of QOP, a Special Technical Committee (STC) shall be constituted with the following composition: -

- (i) Two or more persons who have expert knowledge and/or long experience relevant to the procurement in question;
- (ii) One or more persons with extensive experience in handling public projects and/or public finance in the Government or State/Central Public Sector;
- (iii) One or more persons with experience in financial management/ financial administration/audit/accountancy;
- (iv) Not more than one member representing the procuring entity who may inter alia provide administrative support to the Committee.
- (v) Any person who is a member of the STC shall not associate himself in any manner with any bidder for the procurement concerned.
- (vi) The persons referred to in sub paras (i) to (iii) shall be persons not working under the Competent Authority specified in para 9.17.6.2. and shall not belong to any organization under the control of, or receiving funding from, the procuring entity or the Ministry/ Department to which such procuring entity belongs.

11.17.6.4 The names of members of the Special Technical Committee shall be decided either by the Competent Authority specified in para 9.17.6.2 above or by any other authority to whom such power is delegated by the competent authority; however, powers shall not be delegated to the officer or authority competent to finalize the particular procurement. Sitting fee may be paid to the members of the STC. Incidental costs including travel shall be paid by the procuring entity.

11.17.6.5 The STC shall make specific recommendations on the following matters:-

- (i) The weight to be given to non-financial parameters (not exceeding 30%).
- (ii) The specific quality/ technical parameters, their weights, their scoring methodology, the minimum qualification score etc. and other relevant criteria necessary for ensuring fair and transparent quality/ technical evaluation of the bids.

The recommendations of the STC shall be followed except where there are special grounds in public interest for deviating from them. However, every case of deviation from the recommendations of the STC shall require approval of the Competent Authority specified in para 9.17.6.2 (i) above who approved the declaration of the procurement as QOP.

11.17.6.6 In respect of QCBS for Non-Consultancy Services not exceeding Rs.10 crore, a Technical Committee shall be constituted to carry out functions mentioned in para 9.17.6.5 in lieu of the STC. The composition of the Technical Committee shall follow

the provisions of para 9.17.6.3 (i) to (v). The provisions of 9.17.6.3 (vi) shall however not be applicable in such cases.

11.17.6.7 Grounds for Declaring a Procurement to be Quality Oriented Procurement: A procurement should be declared as a QOP only if there is enough justification in terms of value addition or enhancement of delivery or paramount importance of quality. Reasons for not adopting two cover/ pre-qualification-based/ least cost system shall be documented.

11.17.6.8 Tender Documents - Fixing/ Selection of the Evaluation/ Qualification Criteria

- (i) To ensure quality, some of the criteria used in marking may be made mandatory and if a bidder does not meet those, then bids shall not be evaluated further.
- (ii) Weightage may also be given for timely completion of past projects of similar nature by the bidder.
- (iii) In all cases of QOP, a pre-bid meeting shall be held in which the technical criteria including the marking scheme shall be discussed with the potential bidders. If any changes in the criteria are necessitated by such consultation, such changes shall require the recommendation of the STC. In Non-Consultancy Services, pre-bid meetings may be held at the discretion of the public authority.

11.17.6.9 Fixing of Scoring/ Marking Criteria:

- (i) The scoring should not be a variable that relies on the subjective opinion of the evaluating panel. The marking scheme should enable achievement of almost similar scores irrespective of the persons/ experts being involved in the evaluation process. When the outcomes are consistent for the available information, the QCBS parameters are more reliable. Unambiguous description and criteria help to avoid grey areas so as to ensure that there is only one possible score for the item. As far as possible, the criteria should be so specific and clear that bidders can self-mark their own bids.
- (ii) It is better to specify minimum marks for meeting the qualifying criteria specified.
- (iii) Examples of fixed quality parameters that ought not to be considered for relative scoring include organizations' ISO/ standards' accreditation, etc. These are required to establish the credentials of the service provider but cannot be used for relative comparison between various bidders.
- (iv) Bidders should be asked to produce certificates for the past performance. A format may be given in the tender itself outlining the contract details, completion, sustainability of service etc and bidders may be asked to fill it and give evidence to that effect.
- (v) Bidders may be asked to submit a detailed presentation on their proposals in the form of soft copy along with the bid so as to facilitate better understanding of their proposal and to ensure commitment.
- (vi) Besides the Bill of Quantity (BOQ) output criteria for payment, Key Performance Indicators (KPIs) may be specified with minimum achievement levels for payment so as to ensure quality compliance.

11.17.6.10 Evaluation of QCBS Bids: For evaluation, a suitable committee shall be constituted. However, members of the STC shall not be involved.

11.17.6.11 Joint ventures in QCBS:

- (i) In conventional tenders, some bidders adopt “name borrowing” and Joint Ventures (JV) often do not function in letter and spirit. This results in lack of quality and accountability. JVs often end in one-sided participation, diluting the essence of the tender evaluation during its performance. Since quality is given weightage in the evaluation itself, in QCBS procurement, it is even more important to guard against such tendencies. Therefore, Joint Ventures may be avoided in QCBS procurements as far as possible. Joint Ventures could, however, become necessary in high technology or innovative projects where a single entity may not be able to execute the work alone.
- (ii) If JVs are allowed, adequate safeguards should be provided. Since weightage for quality/ experience influences the award itself, measures should be taken to ensure that all the JV partners are present and deliver services all through the contract period. An Implementation Board with participation of all JV partners may be provided for wherein the Project Manager from the procuring entity shall also be allowed audience when required. Meeting of JV partners with the project executing authority for quarterly progress review may be made as a criterion linked to achievement of key dates or even payment.

11.18 Service Level Agreement (SLA)

A service level agreement (SLA) is an agreement designed to create a common understanding about services, priorities and responsibilities, improve communications, manage expectations, clarify responsibilities and build the foundation for a win-win relationship. It must be specified in the bidding Document and finalized before the Services are started. The objectives of SLA are:

- i) Identify and define the Procuring Entity's needs;
- ii) Eliminate unrealistic expectations on either side;
- iii) Provide a framework for understanding between the service provider and the Procuring Entity;
- iv) Reduce areas of conflict and encourage dialog in the event of disputes

While drafting the SLAs, care should be taken that they are balanced to both the contracting parties and penalties are proposed on both the sides.

SLA has two sets of elements:

a) Service elements

- 1. the services to be provided (and perhaps certain services not to be provided, if Procuring Entity might erroneously assume the availability of such services);
- 2. conditions of service availability;
- 3. service standards, such as the timeframes within which services will be provided
- 4. the responsibilities of both parties

5. escalation procedures in case of performance deficiencies

b) Management elements

1. how service effectiveness will be tracked
2. how information about service effectiveness will be reported and addressed
3. how service-related disagreements will be resolved
4. how the parties will review and revise the SLA- Conditions warranting change; Change frequency and Change procedures

11.19 Monitoring the Contract

Before commencement of the Services, the service provider shall submit to the Procuring Entity for approval a Program showing the general methods, arrangements, order and timing for all activities. The Services shall be carried out in accordance with the approved Program as updated. CA should nominate an officer/ Committee to be involved throughout in the conduct of the contract and to continuously monitor the performance of the contractor. The process is described in chapter-8, which is broadly applicable to both Consultancy and Non- consultancy services. (*Rule 205 of GFR2017*).

(Note: This Chapter-11 has been reproduced from Chapter-9 of the Manual for Procurement of Consultancy & Other Services (Updated June, 2022), issued by Govt. of India, Ministry of Finance, Department of Expenditure and accordingly, any references (viz. Chapter, Para, Annexure) mentioned therein are from the said Manual.)

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Annexure-A

Sl. No.	Performance Parameters /Indicators	Yes/No, along with Remarks in respect of achievement (in %) of Performance Parameters/ Indicators	Total Maximum Marks	Performance Evaluation/ Measurement		Total Ratings Scored
				% of achievement	Point Rating	
				1% - 20 %	1	
				21% - 40 %	2	
				41% - 60 %	3	
				61 % - 80 %	4	
				81% - 100 %	5	
Ratings Scored 1-2-3-4-5						
(1)	(2)	(3)	(4)	(5)	(6)	
1	Financial Management		20		Rating of Financial Management = (Total of all ratings scored x 20)/ 35	
1.1	Whether there is any provision for providing Mobilization Advance/Advance to the Contractor? If so, have all the installments of the said Advance been availed by the Contractor and when?				(Prorated to 20 marks)	

Sl. No.	Performance Parameters /Indicators	Yes/No, along with Remarks in respect of achievement (in %) of Performance Parameters/ Indicators	Total Maximum Marks	Performance Evaluation/ Measurement		Total Ratings Scored
				% of achievement	Point Rating	
				1% - 20 %	1	
				21% - 40 %	2	
				41% - 60 %	3	
				61 % - 80 %	4	
				81% - 100 %	5	
Ratings Scored 1-2-3-4-5						
(1)	(2)	(3)	(4)	(5)	(6)	
1.2	After receipt of the Mobilisation Advance/ Advance, whether the actual Mobilization done by the contractor matching with the approved Mobilisation Schedule, which is supposed to be submitted by the Contractor prior to release of said Advance? If no, reasons thereof may be provided including stating what are the areas of shortfall.					
1.3	Whether there is any provision for providing Plant & Machinery Advance to the Contractor? If so, have such Advance been availed by the Contractor and when?					

Sl. No.	Performance Parameters /Indicators	Yes/No, along with Remarks in respect of achievement (in %) of Performance Parameters/ Indicators	Total Maximum Marks	Performance Evaluation/ Measurement		Total Ratings Scored
				% of achievement	Point Rating	
				1% - 20 %	1	
				21% - 40 %	2	
				41% - 60 %	3	
				61 % - 80 %	4	
				81% - 100 %	5	
Ratings Scored 1-2-3-4-5						
(1)	(2)	(3)	(4)	(5)	(6)	
1.4	Against Plant & Machinery Advance, whether Plant & Machinery of requisite capacity been brought to site and are these in working condition? If no, reasons thereof may be provided including stating whether there has been any disruption of work due to lack of good/working condition and requisite capacity of Plant & Machinery and has any action for replacement been taken by the Contractor.					
1.5	Is the contractor effecting/making payment of wages/salary to his staff and labourers/sub-contractors engaged in the work regularly? If no, reasons thereof with actions taken against the Contractor for settlement of dues of the Contractor's staff may be indicated.					

Sl. No.	Performance Parameters /Indicators	Yes/No, along with Remarks in respect of achievement (in %) of Performance Parameters/ Indicators	Total Maximum Marks	Performance Evaluation/ Measurement		Total Ratings Scored
				% of achievement	Point Rating	
				1% - 20 %	1	
				21% - 40 %	2	
				41% - 60 %	3	
				61 % - 80 %	4	
				81% - 100 %	5	
Ratings Scored 1-2-3-4-5						
(1)	(2)	(3)	(4)	(5)	(6)	
1.6	What is the cash flow position of the Contractor at project site? Whether any disruption of work recorded due to paucity of fund of the Contractor? If Yes, reasons thereof may be furnished along with details of impact on work.					
1.7	Whether the contractor has sought any financial assistance beyond the Contract provisions. If so, the reasons thereof for seeking such financial assistance may be furnished.					
2	Progress Management		30		Rating of Progress	

Sl. No.	Performance Parameters /Indicators	Yes/No, along with Remarks in respect of achievement (in %) of Performance Parameters/ Indicators	Total Maximum Marks	Performance Evaluation/ Measurement		Total Ratings Scored
				% of achievement	Point Rating	
				1% - 20 %	1	
				21% - 40 %	2	
				41% - 60 %	3	
				61 % - 80 %	4	
				81% - 100 %	5	
Ratings Scored 1-2-3-4-5						
(1)	(2)	(3)	(4)	(5)	(6)	
2.1	Has the actual mobilisation of manpower by the Contractor been done as per approved mobilisation plan? If no, shortfall in mobilization of manpower with reasoning may be indicated including the extent of shortfall in mobilisation of manpower and the likely date of completion by the contractor.				Management= (Total of all ratings scored x 30)/45 (Prorated to 30 marks)	
2.2	Has the actual deployment of plant and machinery by the Contractor been done as per approved plant and machinery deployment schedule? If no, reasoning for shortfall, the extent of shortfall in deployment of plant and machinery and the likely date of completion of deployment of plant and machinery by the contractor may be indicated in the remarks.					

Sl. No.	Performance Parameters /Indicators	Yes/No, along with Remarks in respect of achievement (in %) of Performance Parameters/ Indicators	Total Maximum Marks	Performance Evaluation/ Measurement		Total Ratings Scored
				% of achievement	Point Rating	
				1% - 20 %	1	
				21% - 40 %	2	
				41% - 60 %	3	
				61 % - 80 %	4	
				81% - 100 %	5	
Ratings Scored 1-2-3-4-5						
(1)	(2)	(3)	(4)	(5)	(6)	
2.3	Has the Contractor taken up the work as per approved Construction /Work Programme? If no, reasons for the same may be indicated which includes, slippage of any major activities so far, are these attributable to the Contractor or to the Corporation, Contractor's adherence to the decisions taken by the Engineer-in-Charge.					
2.4	Is the Contractor fully geared up with procurement of construction materials required for the work such as cement, steel, sand, aggregates as per the procurement plan for bringing the required quantity to site in a phased manner commensurate with work? If no, reasons thereof may be indicated.					

Sl. No.	Performance Parameters /Indicators	Yes/No, along with Remarks in respect of achievement (in %) of Performance Parameters/ Indicators	Total Maximum Marks	Performance Evaluation/ Measurement		Total Ratings Scored
				% of achievement	Point Rating	
				1% - 20 %	1	
				21% - 40 %	2	
				41% - 60 %	3	
				61 % - 80 %	4	
				81% - 100 %	5	
Ratings Scored 1-2-3-4-5						
(1)	(2)	(3)	(4)	(5)	(6)	
2.5	Has the contractor taken up insurance policy for all works, assets brought to site and manpower as per contract provisions? If No, reasons thereof may be indicated.					
2.6	Is the contractor maintaining cordial relation with Engineer-in-Charge including with other Contractor working in the Project site and the local people surrounding Project site. If no, reasons thereof may be indicated.					
2.7	Is the Contractor complying with all statutory rules and regulations in terms of Contract Agreement including wage requirements, environmental & safety requirements? If no, reasons thereof may be indicated.					

Sl. No.	Performance Parameters /Indicators	Yes/No, along with Remarks in respect of achievement (in %) of Performance Parameters/ Indicators	Total Maximum Marks	Performance Evaluation/ Measurement		Total Ratings Scored
				% of achievement	Point Rating	
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				21% - 40 %	2	
				41% - 60 %	3	
				61 % - 80 %	4	
				81% - 100 %	5	
Ratings Scored 1-2-3-4-5						
(1)	(2)	(3)	(4)	(5)	(6)	
2.8	Is the Contractor paying payment towards royalty for forest product such as aggregates, sand etc. regularly? If no, reasons thereof may be indicated and how is this being sorted out in terms of Contract Agreement.					
2.9	As per the Contract terms, if certain facilities are provided to the Contractor by the Corporation, then whether these facilities are being properly utilized by the Contractor? If no, reasons thereof may be indicated.					
3	Quality Management:		25		Rating of Quality Management= (Total	

Sl. No.	Performance Parameters /Indicators	Yes/No, along with Remarks in respect of achievement (in %) of Performance Parameters/ Indicators	Total Maximum Marks	Performance Evaluation/ Measurement		Total Ratings Scored
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				1% - 20 %	1	
				21% - 40 %	2	
				41% - 60 %	3	
				61 % - 80 %	4	
				81% - 100 %	5	
Ratings Scored 1-2-3-4-5						
(1)	(2)	(3)	(4)	(5)	(6)	
3.1	Has there been any deviation from the approved Construction drawings released by the Corporation, for the works executed so far. If no, reasons thereof may be indicated.				of all ratings scored x 25)/45 (Prorated to 25 marks)	
3.2	Is the Contractor procuring Construction materials such as cement, steel, boulder, aggregates, sand etc. as per standards stipulated in the Technical Specifications of Contract Agreement and Whether cement/steel are taken from approved manufacturers and/or boulders/sand/aggregates from the approved quarries of the Corporation and is the quality of such materials put to use being ascertained? In case of any deviations from contract specifications, the reasons thereof					

Sl. No.	Performance Parameters /Indicators	Yes/No, along with Remarks in respect of achievement (in %) of Performance Parameters/ Indicators	Total Maximum Marks	Performance Evaluation/ Measurement		Total Ratings Scored
				% of achievement	Point Rating	
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				61 % - 80 %	4	
				81% - 100 %	5	
				Ratings Scored 1-2-3-4-5		
(1)	(2)	(3)	(4)	(5)	(6)	
	may be indicated.					

Sl. No.	Performance Parameters /Indicators	Yes/No, along with Remarks in respect of achievement (in %) of Performance Parameters/ Indicators	Total Maximum Marks	Performance Evaluation/ Measurement		Total Ratings Scored
				% of achievement	Point Rating	
				1% - 20 %	1	
				21% - 40 %	2	
				41% - 60 %	3	
				61 % - 80 %	4	
				81% - 100 %	5	
Ratings Scored 1-2-3-4-5						
(1)	(2)	(3)	(4)	(5)	(6)	
3.3	Is the aggregate production capacity of the contractor adequate to meet the requirements of works from time to time? Have necessary batching plants been installed/established at different working fronts by the Contractor and are these in operation? If no, reasons thereof may be indicated.					
3.4	Is the flow of construction materials at site commensurate to the periodical requirements of the same at site? If no, reasons thereof may be indicated.					
3.5	Has the Contractor established field laboratory at work sites as per Terms and conditions of the Contract Agreement. If no, reasons thereof may be indicated.					

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				21% - 40 %	2	
				41% - 60 %	3	
				61 % - 80 %	4	
				81% - 100 %	5	
Ratings Scored 1-2-3-4-5						
(1)	(2)	(3)	(4)	(5)	(6)	
3.6	Is the Contractor carrying out all the necessary tests (field test as well as laboratory test) required for the works as per terms and conditions of the Contract Agreement? Is there any deficiencies in this regard so far, details thereof may be indicated.					
3.7	Has the Contractor submitted Quality Assurance Plan and has the same been approved by the Corporation. If no, reasons thereof may be indicated.					
3.8	Has the Contractor deviated from the approved Quality Assurance Plan during execution? If yes, reasons thereof may be indicated.					

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				% of achievement	Point Rating	
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				21% - 40 %	2	
				41% - 60 %	3	
				61 % - 80 %	4	
				81% - 100 %	5	
Ratings Scored 1-2-3-4-5						
(1)	(2)	(3)	(4)	(5)	(6)	
3.9	Have adequate arrangements been made by the Contractor for proper storage of construction materials mainly, cement and steel? If no, reasons thereof may be indicated.					
4	Environment and Safety Management:		15		Rating of Environment and Safety Management = (Total of all ratings scored x 15)/15 (Prorated to 15 marks)	
4.1	Whether the contractor has set up & followed necessary environmental protection plan including environmental supervisory personnel and procedures to comply with Union and State Governments' environmental regulations relevant to the construction of the Project for environmental protection as per terms and conditions of the Contract Agreement? If no, reasons thereof may be indicated.					

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				% of achievement	Point Rating	
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				21% - 40 %	2	
				41% - 60 %	3	
				61 % - 80 %	4	
				81% - 100 %	5	
Ratings Scored 1-2-3-4-5						
(1)	(2)	(3)	(4)	(5)	(6)	
4.2	Whether the contractor has set up & followed on site necessary safety rules and procedures and whether staff and facilities including Emergency facilities (Hospital, First Aid and Ambulances etc.) proposed for dealing with accidents and health care, in compliance with the requirements of the Technical Specifications of Contract Agreement? If no, reasons thereof may be indicated.					
4.3	Whether the contractor has made the necessary accommodation and welfare facilities for construction labour and their families, as per terms and conditions of the contract Agreement? If no, reasons thereof may be indicated.					

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				21% - 40 %	2	
				41% - 60 %	3	
				61 % - 80 %	4	
				81% - 100 %	5	
				Ratings Scored 1-2-3-4-5		
(1)	(2)	(3)	(4)	(5)		(6)
5	Claims and Disputes Management:		10			Rating of Claims and Disputes Management = (Total of all ratings scored x 10)/35 (Prorated to 10 marks)
5.1	Whether the contractor has raised any claim with the supporting documents within the stipulated time as per the provisions of the Contract Agreement? If so, present status/details of all such claims, if any, may be indicated.					
5.2	What/how is the merit of the claims raised by the Contractor?					
5.3	Whether the Contractor is litigant in respect of solving claims/disputes?					
5.4	Whether the Contractor is co-operative in respect of solving claims/disputes?					

Sl. No.	Performance Parameters /Indicators	Yes/No, along with Remarks in respect of achievement (in %) of Performance Parameters/ Indicators	Total Maximum Marks	Performance Evaluation/ Measurement		Total Ratings Scored
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				21% - 40 %	2	
				41% - 60 %	3	
				61 % - 80 %	4	
				81% - 100 %	5	
Ratings Scored 1-2-3-4-5						
(1)	(2)	(3)	(4)	(5)	(6)	
5.5	Whether there is any arbitration case with the Contractor, if yes, under what circumstances the contractor has invoked the Arbitration Clause? The details/records thereof may be furnished.					
5.6	Whether the contractor has disputed with other contractor in carrying out the works? If so, details and the merit of such dispute may be furnished.					
5.7	Whether the contractor has disputed with the local people? If so, details of such dispute may be furnished.					
	Total Marks:		100			

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				81% - 100 %	5	
				Ratings Scored 1-2-3-4-5		
(1)	(2)	(3)	(4)	(5)	(6)	

Note:

- The above Performance Parameters/Indicators are indicative only and shall be used for general purpose. In every case, the above mentioned parameters/ indicators shall be job specific, in conformity with the requirements of the contract specifications. In the process of carrying out the Suppliers Evaluation process, if any performance parameters/ indicators are found to be not relevant or found redundant or any changes felt necessary in the parameters/ indicators for a works/supply contract, then those parameters/ indicators may be deleted or modified to the extent changes made. Accordingly, the calculation of "Rating" under the respective head of Financial Management / Progress Management/ Quality Management / Environment and Safety Management /Claims and Disputes Management shall be = (Total of all ratings scored under the respective head of Financial Management / Progress Management/ Quality Management / Environment and Safety Management /Claims and Disputes Management x Total maximum Marks of the respective head of Financial Management / Progress Management/ Quality Management / Environment and Safety Management /Claims and Disputes Management) / (5 x actual numbers of Performance Parameters/Indicators under the respective head of Financial Management / Progress Management/ Quality Management / Environment and Safety Management /Claims and Disputes Management).
- The fulfillment/achievement of above Performance Parameters/Indicators whether "YES/NO" along with Remarks, in respect of achievement of Performance Parameters/Indicators, including Performance Evaluation thereof through "PERFORMANCE GRADING" i.e. whether "Excellent/ Very Good/ Good/Satisfactory/Poor", shall be filled-up by the respective Procuring/ Executing Authorities, where the Contractor/Supplier is executing the works /supplies Contracts, based on merit of actual fulfillment/achievement of above mentioned Performance Parameters/ Indicators by the contractor/supplier.

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				61 % - 80 %	4	
				81% - 100 %	5	
Ratings Scored 1-2-3-4-5						
(1)	(2)	(3)	(4)	(5)	(6)	
<ul style="list-style-type: none">• The Procuring / Executing Authorities may seek necessary data/ information/ justifications from the respective contractor/supplier, whenever required to carry out Supplier performance evaluation process. Apart from that, to make the Supplier evaluation process complete in all respect, the Corporation reserves the right to seek any data/ information from agencies like State/Central Government, Stakeholders of Corporation, Funding agencies of the respective Project, Contractors/Suppliers other than the respective Contractor/ Supplier.• The Supplier Evaluation process of the Contractors/ Suppliers for a respective works/supplies Contracts shall be carried out in general on yearly basis• If Performance Grading of a contractor/supplier is evaluated as "Unsatisfactory" for consecutive 2(two) years against a works/supply contract, then the contractor/supplier shall be debarred from participating in the next or future tenders /tendering process of NEEPCO for a period of 2 (two) years. The said debarment from participating in the next/future tenders of NEEPCO shall be limited to such nature of packages of works/supply, where the performance has been found as "Unsatisfactory".• The Procuring/ Executing Authorities shall obtain approval on Supplier's Performance Evaluation of the Contractor/ Supplier against a Contract, from the authority competent of approving the award of work/supply, as per DOP. If Competent Authority of approving the award is CMD and above, then approval of Director (Technical) and CMD respectively shall be obtained on the same.• In Supplier Evaluation Process, if the performance of Contractor/supplier is evaluated as "Unsatisfactory", then the Corporation reserves the right to terminate the respective contract as per the respective Contract stipulations.• The Supplier Evaluation Process shall be incorporated in the Bid Documents of future tenders at a suitable location (for example i.e. "Instructions to						

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				81% - 100 %	5	
				Ratings Scored 1-2-3-4-5		
(1)	(2)	(3)	(4)	(5)	(6)	
Bidders” of Bid documents) for information of the bidders.						

Performance Evaluation/Assessment:

Final Marks Scored:

Parameters/Indicators	Total Marks	Mars Scored	Grand Total/ Total Point Rating
Financial Management	20		
Progress Management	30		
Quality Management	25		
Environment and Safety Management	15		
Claims and Disputes Management	10		
TOTAL:	100		

PERFORMANCE GRADING:

Grand Total / Total Point Rating	Scale of Performance	PERFORMANCE GRADING	Tick
	81-100	Outstanding/ Excellent	
	61-80	Very Good	
	46-60	Good	
	31-45	Satisfactory	
	1-30	Below Par/ Poor/ Unsatisfactory	

