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## **Rajasthan Transparency In Public Procurement Rules, 2013**

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# **Rajasthan Transparency In Public Procurement Rules, 2013**

## **CHAPTER 1 Preliminary**

### **1. Short title and commencement :-**

(1) These rules may be called the Rajasthan Transparency in Public Procurement Rules, 2013.

(2) They shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

### **2. Definitions :-**

(1) In these rules, unless the context otherwise requires, -

(i) "Act" means the Rajasthan Transparency in Public Procurement Act, 2012 (Act No. 21 of 2012);

(ii) "competent authority" means an authority or officer to whom the relevant administrative or financial powers have been delegated for taking decision in a matter relating to procurement;

(iii) "form" means form appended to these rules;

(iv) "international competitive bidding" means a bidding process in which qualified bidders from all over the world, except those having nationality of a country declared ineligible by the Central Government, are allowed to participate;

(v) "national competitive bidding" means a bidding process in which qualified bidders only from within India are allowed to participate; and

(vi)"section" means section of the Rajasthan Transparency in Public Procurement Act, 2012.

(2) Words and expressions used in these rules but not defined shall have the same meaning as assigned to them in the Act.

## **CHAPTER 2** Organisational Structure for Procurement

### **3. Procurement committees :-**

(1) Every procuring entity shall constitute one or more committees for the following purposes, namely: -

(a) Preparation of bidding documents;

(b) Opening of bids;

(c) Evaluation bids;

(d) Monitoring of contract;

(e) Spot Purchase;

(f) Competitive negotiation; and

(g) Any other purpose relating to procurement, as may be decided by the procuring entity.

(2) Each committee shall consist of three or more members including senior most accounts officer or official of the procuring entity, and if required, a technical official may be nominated by the procuring entity. A consultant, as subject matter specialist, may also be nominated in the committee by the procuring entity, after recording reasons, with the prior approval of the competent authority.

(3) In complex projects, the work of preparation of project report or bidding documents may be assigned to consultants with the prior approval of the competent authority.

### **4. State Public Procurement Portal :-**

The State Public Procurement Portal, in addition to information specified in clause (a) to (g) of sub-section (3) of section 17, shall provide access to such other information as may be specified by the State Government, from time to time. Every procuring entity shall upload and publish the required information on State Public Procurement Portal maintained by the State Procurement Facilitation Cell.

### **5. e-procurement :-**

All subject matters of procurement of an estimated value, as may be notified by the State Government under sub-section (2) of

section 28, shall be procured through e-procurement. In such cases every bidder shall deposit user charges as may be fixed by the State Government, from time to time. Every bid shall be digitally signed by the bidder. The procedure of e-procurement shall be as specified for this purpose on the State Public Procurement Portal.

### **CHAPTER 3** General principles of procurement

#### **6. Determination of need :-**

In every case of a procurement, the procuring entity shall first determine the need and maintain documents relating to determination and assessment of need in accordance with the provisions of section 5.

#### **7. Procurement plan :-**

(1) A procurement plan shall be prepared by every procuring entity for each of the item of goods, works or services to be procured during the year in accordance with section 5.

(2) The Procurement plan shall specify the following:-

(a) Nature of Procurement - Goods / Works / Services;

(b) Major Specifications - Quantity / Type / Quality;

(c) Estimated Value;

(d) Source of Funds - Plan / Non-Plan/Central Sponsored Scheme/ Externally Aided Project/ Others;

(e) Budget Code;

(f) Procurement Method likely to be followed;

(g) Timeframe for Bid Process; and

(h) Timeframe for Delivery of goods or services or Completion of work to identify the funds required in the next financial year or subsequent financial years.

(3) The plan shall be based on inputs received for each item from officers at various hierarchical level of the procuring entity.

#### **8. Numbering convention :-**

Each procurement process undertaken by any procuring entity shall have a Unique Bid Number which shall be used for tracking purpose during and after the bid process. The Unique Bid Number shall be designed like a code to reflect department / Procuring Entity, type of procurement, threshold value of procurement and method, year and serial number of bid in that particular year.

## **9. Procurement Management Information System and tracking :-**

( 1 ) Every procuring entity shall develop and maintain a Procurement Management Information System for tracking the procurement process, which shall include the following, namely:-

(a) In order to track the performance of the procurement process, information shall be collated at the procuring entity level on quarterly basis and be available for reference at procuring entity level at all times and shall be sent for collation to the respective Administrative Department. The Administrative Department shall further send the aggregated Procurement Management Information to the State Procurement Facilitation Cell quarterly.

(b) The Management Information System shall cover the entire procurement cycle and incorporate performance targets set for various processes.

(c) The Procurement Management Information System shall be developed in a query based format to allow for in-depth analysis and ease of use, providing realtime information about the status of the bid at any point of time. This shall be integrated with the State Public Procurement Portal in order to further track performance on various parameters, including performance of contracts, delays and penalties imposed.

## **10. Procurement Register :-**

Each procuring entity shall maintain a procurement register and ensure the safe custody of the procurement register.

## **11. Administrative, Financial and Technical sanctions and availability of budget provision :-**

For each procurement, it shall be necessary to obtain all required approvals and sanctions as applicable. In case of procurement of works, this shall include administrative sanction, financial sanction, technical sanction and appropriation or re-appropriation. The procuring entity must have the necessary financial powers delegated to it for procurement of the subject matter.

## **12. Obligations related to value of procurement :-**

The obligations related to value of procurement shall be as per the provisions of section 8.

### **13. Participation of bidders :-**

(1) The procuring entity, at the time of inviting the participation of bidders in the procurement process, shall declare whether participation of bidders is limited or not and if limited, grounds thereof. Such declaration may not ordinarily be altered later.

(2) Normally the procedure of National Competitive Bidding (NCB) shall be adopted. The procedure of International Competitive Bidding (ICB) may be adopted if there is such a condition of adopting International Competitive Bidding for certain procurements under an obligation of an agreement with an intergovernmental international financing institution, or the subject matter of procurement is such that in the opinion of the procuring entity, it will be in the public interest to adopt International Competitive Bidding, after recording reasons.

## **CHAPTER 4 Methods of Procurement**

### **14. Methods of Procurement :-**

Subject to the provisions of the Act, these rules, any additional conditions notified under section 37 and guidelines issued under the Act, a procuring entity may procure a subject matter of procurement by any of the methods specified or notified under sub-section (1) of section 28.

### **15. Open competitive bidding :-**

Procedure for procurement of a subject matter through open competitive bidding shall be as specified in Chapter-V of these rules.

### **16. Limited bidding :-**

(1) In case of procurement of a subject matter as per clause (b) of sub-section (1) of section 30, a procuring entity may adopt the method of limited bidding if the estimated cost or value of the subject matter is less than Rupees two lakh on one occasion but it shall not exceed Rupees ten lakh in a financial year.

(2) The procedure for limited bidding shall be as under:-

(a) The procuring entity shall issue an invitation to bid by exhibiting it on the State Public Procurement Portal and by writing directly, and on the same day, to-

(i) all the bidders who can supply the subject matter of

procurement in terms of clause (a) of sub-section (1) of section 30;  
or

(ii) all the bidders who are registered for the subject matter of procurement with the procuring entity or where a procuring entity does not register the bidders in respect of a subject matter of procurement, to the registered bidders of any other procuring entity, if any; or

(iii) at least three manufacturers, authorised dealers, authorised service centres, bona-fide dealers or service providers, in case registered bidders are not available.

(b) The procuring entity may allow all prospective bidders who fulfill the qualification criteria laid down for the procurement in the bidding documents, whether an invitation to bid has been issued to such bidders or not, to participate in the bidding process.

(c) A minimum period of seven days, in case of emergency after recording reasons three days, shall be given to the bidders to offer their bids.

(d) If limited bidding is invited under clause (b) and (c) of sub-section (1) of section 30, bid security shall not be obtained.

(e) For the remaining procedure of procurement by limited bidding, the provisions of Chapter-V shall apply mutatis mutandis except publication of Notice Inviting Bids in the news papers as per sub-rule (6) or (7) of rule 43.

## **17. Single source procurement :-**

(1) In addition to the conditions enumerated in sub-section (1) of section 31, a procuring entity may procure the subject matter by the method of single source procurement, if-

(a) Hiring of the services of consultant or professional is required, for a maximum period of twelve months and up to financial limit of Rupees five lakh in each case, subject to delegation of financial powers; or

(b) Price of subject matter of procurement is administered by the State Government or the Central Government.

(2) The procedure for single source procurement shall be as under:-

(a) The procuring entity shall solicit a bid from the single prospective bidder and shall also exhibit the invitation to bid on the State Public Procurement Portal if the value of procurement is rupees one lakh or more. The procuring entity shall not exhibit the invitation to bid on the State Public Procurement Portal, if it is of the opinion that subject matter for procurement is of nature



specified in clause (e) or (h) of sub-section (1) of section 31.

(b) The procuring entity may engage in negotiations in good faith with the bidder.

(c) The single source may be selected out of the list of empanelled / registered bidders for the subject matter of procurement with the procuring entity or with any other procuring entity, where procuring entity uses the list of registered bidders of other procuring entity in terms of sub-section (5) of section 19 or suitable bidder identified through other reliable sources.

(d) Bid security shall not be obtained in case of single source procurement.

(e) Except as otherwise provided in this rule and provisions of Chapter-V relating to pre-qualification proceedings, bid security, publication of Notice Inviting Bids in the news papers, price of bidding documents, sale of bidding documents, pre-bid clarifications, exclusion of bids, comparison of rates of firms outside and those in Rajasthan, price/purchase preference in evaluation and dividing quantities among more than one bidder at the time of award, all other provisions of Chapter-V shall mutatis mutandis apply, but in case of matters covered under sub-rule (1) performance security shall not be obtained.

(3) Notwithstanding anything contained in sub-rule (2), in the emergent situation arising out of floods and other natural calamities, the subject matter of procurement may be procured up to the ceiling rates. The committee consisting of the following, shall decide the ceiling rates for subject matter of procurement on the basis of rates received during the last six months or the prevailing market rates analysis, namely:-

(a) District Collector - Chairman

(b) District level officer of the concerned department Member

(c) Treasury Officer - Member Secretary

(d) Special invitee, if required- Member

### **18. Two stage bidding :-**

The procedure for two stage bidding shall be as under:-

(a) In the first stage of the bidding process, the procuring entity shall invite proposals containing the professional and technical competence, qualifications of bidders regarding the subject matter of procurement and contractual terms and conditions of the proposed procurement;

(b) All first stage bids, which are otherwise eligible, shall be

evaluated in accordance with the procedure laid down in these rules and the bidding documents by bids evaluation committee;

(c) The committee may hold discussions with the bidders and if any such discussion is held, equal opportunity shall be given to all bidders to participate in the discussions;

(d) In revising the technical design, stipulations, relevant terms and conditions of the procurement, the procuring entity shall not modify the fundamental nature of the procurement itself, but may add, amend or delete any specification of the subject matter of procurement or criterion for evaluation;

(e) Notwithstanding anything contained in sections 29 and 30, in the second stage of the bidding process, the procuring entity shall invite bids from all those bidders whose bids at the first stage were not rejected, to present final bid with bid prices and detailed technical bid in response to a revised set of terms and conditions of the procurement;

(f) Any bidder, invited to bid but not in a position to supply the subject matter of procurement due to changes in the specifications, may withdraw from the bidding proceedings without liability of forfeiting bid security.

(g) Except as otherwise provided in this rule all other provisions of Chapter-V shall, mutatis mutandis, apply.

### **19. Procedure of electronic reverse auction :-**

(1) The procuring entity shall solicit bids by causing an invitation to the electronic reverse auction to be published in accordance with rule 43. The invitation shall include,-

(a) the name and address of the procuring entity including e-mail address if any;

(b) a detailed description of the subject matter of the procurement and the required time and location for providing such subject matter;

(c) the terms and conditions of the procurement contract, to the extent they are already known to the procuring entity, and the form of the contract, if any, to be signed by the parties;

(d) the criteria and procedures to be used for ascertaining the qualifications of bidders and any documentary evidence or other information that must be presented by bidders to demonstrate their qualifications;

(e) the criteria and procedure for examining bids against the description of the subject matter of the procurement;

- (f) the criteria and procedure for evaluating bids, including any mathematical formula that shall be used in the evaluation procedure during the auction;
  - (g) the manner in which the bid price is to be formulated and expressed, including a statement as to whether the price is to cover elements other than the cost of the subject matter of the procurement, such as any applicable transportation, insurance charges, customs duties, taxes, etc.;
  - (h) the minimum number of bidders required to register for the auction;
  - (i) how the auction can be accessed;
  - (j) the deadline by which the bidders must register for the auction and the requirements for registration;
  - (k) the date and time of the opening of the auction and the requirements for identification of bidders at the opening of the auction;
  - (l) the criteria governing the closing of the auction;
  - (m) other rules for the conduct of the auction, including the information that will be made available to the bidders in the course of the auction, the language in which it will be made available and the conditions under which the bidders will be able to bid;
  - (n) references to the Act and these rules, and other laws and regulations directly pertaining to the procurement proceedings, including those applicable to procurement involving classified information, and the place where those laws and regulations may be found;
  - (o) the means by which the bidders may seek clarification of information relating to the procurement proceedings;
  - (p) the name, designation and address of one or more officers or employees of the procuring entity including e-mail address, if any, who are authorised to communicate directly with and to receive communications directly from the bidders in connection with the procurement proceedings before and after the auction without the intervention of an intermediary;
  - (q) verification of any formalities including, where applicable, ascertainment of qualifications or responsiveness before execution of a written procurement contract and only after the fulfillment of such formalities, the contract shall come into force; and
  - (r) any other requirement, which is considered by the procuring entity essential for the purpose.
- (2) The procuring entity may decide, in the light of the circumstances of the given procurement, that the electronic reverse

auction shall be preceded by an examination or evaluation of initial bids. In such case, the invitation to the auction shall, in addition to information specified in sub-rule (1) of this rule, include,-

(a) an invitation to present initial bids, together with instructions for preparing initial bids; and

(b) the manner, place and deadline for presenting initial bids.

(3) Where the electronic reverse auction has been preceded by evaluation of initial bids, the procuring entity shall promptly after the completion of the evaluation of initial bids,-

(a) despatch the notice of rejection specifying the reasons for rejection to each bidder whose initial bid was rejected;

(b) issue an invitation to the auction to each qualified bidder whose initial bid is responsive, providing all information required to participate in the auction; and

(c) where an evaluation of initial bids has taken place, each invitation to the auction shall also be accompanied by the outcome of the evaluation, as relevant to the bidder to which the invitation is addressed.

## **20. Registration for the electronic reverse auction and the timing of holding the auction :-**

(1) Confirmation of registration for the electronic reverse auction shall be communicated promptly to each registered bidder.

(2) If the number of bidders registered for the electronic reverse auction is less than three, to ensure effective competition, the procuring entity may cancel the auction. The cancellation of the auction shall be communicated promptly to each registered bidder.

(3) The period of time between the issuance of the invitation to the electronic reverse auction and the auction shall be of minimum seven days to bidders to prepare for the auction, taking into account the reasonable needs of the procuring entity.

## **21. Requirements during the electronic reverse auction :-**

(1) The electronic reverse auction shall be based on,-

(a) price, where the procurement contract is to be awarded to the lowest-priced bid; or

(b) price and other criteria specified to the bidders as applicable, where the procurement contract is to be awarded to the most advantageous bid.

(2) During the auction:-

(a) all bidders shall have an equal and continuous opportunity to

present their bids;

(b) there shall be automatic evaluation of all bids in accordance with the criteria, procedure and formula provided to the bidders;

(c) each bidder must receive, instantaneously and on a continuous basis during the auction, sufficient information allowing it to determine the standing of its bid vis-à-vis other bids; and

(d) there shall be no communication between the procuring entity and the bidders or among the bidders, other than as provided for in clauses (a) and (c) above.

(3) The procuring entity shall not disclose the identity of any bidder during the auction.

(4) The auction shall be closed in accordance with the criteria specified to the bidders.

(5) The procuring entity shall suspend or cancel the auction in the case of failures in its communication system that put at risk the proper conduct of the auction. The procuring entity may also cancel the procurement process under the provisions of section 26.

## **22. Requirements after the electronic reverse auction :-**

(1) At the closure of the electronic reverse auction the lowest-priced bid or the most advantageous bid, as the case may be, shall be the successful bid.

(2) In procurement by means of an auction that was not preceded by examination or evaluation of initial bids, the procuring entity shall ascertain after the auction the responsiveness of the successful bid and the qualifications of the bidder submitting it. The procuring entity shall reject that bid if it is found to be unresponsive or if the bidder submitting it is found unqualified. Without prejudice to the right of the procuring entity to cancel the procurement, the procuring entity may select the bid that was the next lowest-priced or next most advantageous bid at the closure of the auction, if the bid is ascertained to be responsive and the bidder submitting it, is ascertained to be qualified.

## **23. Other provisions for electronic reverse auction :-**

Except as otherwise provided in rule 19 to 22, the provisions of Chapter-V shall, mutatis mutandis, apply to electronic reverse auction, except rules 40, 49, 50, 52, 64, 68 and 69.

## **24. Request for Quotations :-**

(1) A procuring entity may adopt the method of request for quotations for procurement if the estimated cost or value of the subject matter of procurement is less than Rupees one lakh on one occasion but it shall not exceed Rupees five lakh in a financial year.

(2) The procedure for request for quotations shall be as under:-

(a) quotations shall be requested from as many potential bidders as practicable, subject to a minimum of three;

(b) each bidder from whom a quotation is requested shall be informed whether any elements other than the charges for the subject matter of the procurement itself, such as any applicable transportation, insurance charges, customs duties, taxes, etc. are to be included in the price.

(c) each bidder shall be permitted to give only one quotation.

(d) the successful quotation shall be the lowest priced quotation meeting the needs of the procuring entity as set out in the request for quotations.

## **25. Spot Purchase :-**

(1) A procuring entity may adopt the method of spot purchase for procurement if the estimated cost or value of the subject matter of procurement is less than Rupees fifty thousand on one occasion but it shall not exceed Rupees three lakh in a financial year.

(2) A procuring entity shall procure a subject matter of procurement on the recommendation of the spot purchase committee. The committee shall survey the market to ascertain the reasonableness of rate, quality and specifications and identify the appropriate supplier of the subject matter and shall record the following certificate-

"Certified \_\_\_\_\_ that \_\_\_\_\_ we  
.....  
(names of members of the committee) members of the spot purchase committee are jointly and individually satisfied that the subject matter recommended for procurement is of the requisite specifications and quality, priced at the prevailing market rate and the supplier recommended is reliable and competent to supply/provide the subject matter in question."

## **26. Procurement without quotations :-**

The subject matter of procurement valuing up to rupees ten thousand may be procured on one occasion subject to a limit of below rupees one lakh during a financial year without inviting

quotations, from the Government Departments / Corporations, authorised dealers, cooperative stores/bhandars or retailers who are bona-fide dealers in the subject matter of procurement.

**27. Procurement of works by work order system and piece work system :-**

(1) Works valuing less than rupees one lakh on each occasion may be procured, subject to a limit of rupees five lakh during a financial year, by work order system. Explanation: Work order system means method of procurement by giving order directly to a registered bidder, to execute a work on scheduled rates in specified time.

(2) The procedure for procurement through work order system shall be as under:-

(a) in work order the quantity, rate and time of completion are invariably mentioned. Penalty for failure to complete the work within the stipulated time is also specified. Maximum work that can be allotted on a work order shall be less than rupees one lakh;

(b) work order shall be given to a registered bidder only;

(c) work order can be given only on the approved Schedule of Rates applicable to the Division / Sub-Division concerned. The Superintending Engineer / Executive Engineer shall ensure that the rates being allowed on work order are not in excess of open bid rates prevalent in the area;

(d) work order can be given by officers as per delegation of financial powers; and

(e) work order agreement shall be executed, after obtaining performance security, in the form specified for the purpose. A Register of Work Orders shall be maintained in the form specified for the purpose.

(3) Works valuing below rupees one lakh on each occasion may be procured, subject to a limit of rupees five lakh during a financial year, by piece work system.

Explanation: Piece work system means method of procurement at the rates sanctioned by the Competent Authority without reference to the total quantity of work to be done within a given period.

(4) The procedure for procurement through Piece Work System shall be as under:-

(a) Execution of work on Piece Work System should normally be avoided. Piece Work System may be resorted to only in a uniform type of work in large quantities, like earth work of canals, desilting,

repair and maintenance of roads, etc.

(b) For determination of rates, open bids shall be invited by Additional Chief Engineer concerned for each division under its control. The intention of the department in inviting such bids for determination of Annual Rate Contract for entering into Piece Work Agreement should be made clear at the time of invitation of bids. Registered bidders of all categories shall be entitled to participate in such bids. After observing all required formalities of bids, the Additional Chief Engineer shall sanction unit rates for the specified items of work, which shall remain in force normally for one year or until the rates are revised but shall in no case remain in force more than three months after completion of one year.

(c) Once such unit rates have been sanctioned, Divisional Officers shall be competent to enter into Piece Work Agreement below rupees one lakh at a time with a single registered bidder of any category. Second Piece Work Agreement shall be entered into only after successful completion of the earlier work. Piece Work Agreement shall be entered into with the registered bidders allowed to operate in the said Division.

(d) In the Piece Work System, the Department is free to ask the bidders to cease the work, and payments are made for the work actually executed as per designs, drawings, specifications, after due measurements and checking of measurement as specified. The maximum period of completion of each piece work is twenty one days which shall not be extended in any case.

(e) In every Divisional office, a Register of Piece Work Agreements shall be maintained in the form specified for the purpose. In the first week of every month, the Divisional Officer shall submit copies of all Piece Work Agreements accepted by him during the previous month to the Superintending Engineer, giving justification for the award of work on Piece Work Agreement explaining the necessity / emergency instead of on regular contracts. The Superintending Engineer, during his inspection and otherwise, shall ensure that the Divisional Officers do not execute work on Piece Work Agreement in a routine manner and rates allowed are not in excess of the running rates approved by the Additional Chief Engineer for the relevant Division, and check with open bid rates of similar works on regular contract basis in the Sub-Division / Division / Circle and that the system of record measurements of work done and check measurements thereof is followed properly.

(f) The contract awarded on Piece Work System is exempted from depositing performance security.



## **28. Competitive negotiations :-**

The procedure for competitive negotiation shall be as under:-

(a) procurement of the subject matter shall be made through the competitive negotiations committee. The committee shall give the following certificate-

"Certified that we .....  
.....(names of members of the committee),  
members of the competitive negotiations committee are jointly and individually satisfied that the subject matter of procurement recommended is of the requisite specifications and quality, priced at the prevailing market rate and the supplier recommended is reliable and competent to supply the subject matter of procurement."

(b) to ensure effective competition, an adequate number, not being less than three, of potential bidders selected in a non-discriminatory manner shall be included in procurement process;

(c) an equal opportunity shall be given to all bidders to participate in the negotiations. Any requirements, guidelines, documents, clarifications or other information related to the negotiations that is communicated by the procuring entity to a bidder before or during the negotiations shall be communicated, subject to section 49, at the same time and on an equal basis to all other bidders engaging in negotiations with the procuring entity related to the procurement, unless such information is specific or exclusive to that bidder;

(d) after completion of negotiations, the procuring entity shall request all bidders remaining in the proceedings to present, by a specified time and date, a best and final offer with respect to all aspects of their proposals;

(e) the committee shall keep the record of all the bids received;

(f) no negotiations shall take place between the procuring entity and bidders with respect to their best and final offers;

(g) the procuring entity shall ensure that the successful offer is the lowest or most advantageous offer; and

(h) nothing contained in sections 5 to 10 (both inclusive), sections 12 to 27 (both inclusive) and Chapter III of the Act shall apply to purchases made by competitive negotiations.

## **29. Rate contract :-**

(1) In addition to the conditions included in sub-section (1) of

section 36 for adopting the method of rate contract, a procuring entity may adopt the method of rate contract, when it determines that by virtue of the nature of subject matter of procurement, the need for that subject matter may arise on an urgent basis during a given period of time.

(2) The procedure for rate contract shall be as under:-

(a) A procuring entity may award a rate contract by the method of open competitive bidding. If it is not possible to adopt the method of open competitive bidding, the procuring entity after recording reasons may adopt another method of procurement. An approximate quantity of required goods, works or service during the period shall be indicated in the Notice Inviting Bids, but no minimum quantity is guaranteed.

(b) The period of rate contract shall be generally one year, preferably a financial year to match with budget provisions and levy of taxes. It may be a shorter period, if variations in market prices are expected to be significant. It may also be a longer period up to maximum two years, if the variations in market prices are not expected to be significant. The reasons for selecting the period for rate contract shall be recorded.

(c) In the first stage single part or two part bids shall be invited in accordance with the provisions of section 13.

(d) A rate contract shall be entered, for price without a commitment for quantity, place and time of supply of subject matter of procurement, with the bidder of lowest priced bid or most advantageous bid.

(e) In the second stage supply or work order shall be placed at the contracted price for supply or execution of the required quantity of the subject matter of procurement mentioning the place of supply or execution, delivery schedule, etc., as and when needed.

(f) Rate contracts may be entered with more than one bidder as parallel rate contracts provided there is such provision in the bidding documents, in the order of their standing in final evaluation, by giving them counter offer of prices of the lowest or most advantageous bidder, in order to secure prompt delivery of goods or services or execution of works, if the quantity of the subject matter of procurement required is beyond the capacity of the lowest bidder or the subject matter of procurement is of critical or vital nature.

(g) The terms and conditions of the rate contract including provision for liquidated damages shall be similar to those prescribed for procurement by open competitive bidding.

(h) The prices under a rate contract shall be subject to price fall clause. A clause regarding price fall shall be incorporated in the terms and conditions of rate contract. Price fall clause is a price safety mechanism in rate contracts and it provides that if the rate contract holder quotes / reduces its price to render similar goods, works or services at a price lower than the rate contract price to anyone in the State at any time during the currency of the rate contract, the rate contract price shall be automatically reduced with effect from the date of reducing or quoting lower price, for all delivery of the subject matter of procurement under that rate contract and the rate contract shall be amended accordingly. The firms holding parallel rate contracts shall also be given opportunity to reduce their price by notifying them the reduced price giving them fifteen days time to intimate their acceptance to the revised price. Similarly, if a parallel rate contract holding firm reduces its price during currency of the rate contract, its reduced price shall be conveyed to other parallel rate contract holding firms and the original rate contract holding firm for corresponding reduction in their prices. If any rate contract holding firm does not agree to the reduced price, further transaction with it, shall not be conducted.

(i) It should be ensured that new rate contracts become operative right after the expiry of the existing rate contracts without any gap. In case it is not possible to conclude the new rate contracts due to unavoidable reasons, the existing rate contracts may be extended on same price, terms and conditions for a period not exceeding 3 months. In such cases it shall be ensured that market prices have not fallen down during the period for the subject matter of procurement or its constituents, to be procured under the rate contract.

(j) Except as otherwise provided in this rule all other provisions of Chapter-V shall, mutatis mutandis, apply.

### **30. Registration :-**

The registration of the bidders shall be carried out in the manner and in accordance with the rules made in this behalf by the State Government.

### **31. Empanelment by pre-qualification process :-**

(1) The procuring entity may prepare a panel of bidders for the subject matter of procurement that is required frequently but the details of the subject matter, its quantity, time and place is not

known in advance. This list shall be valid for one year which may further be extended for another one year after recording reasons. The procuring entity may prepare separate panel for different subject matter of procurement.

(2) The provisions relating to pre-qualification of bidders under section 18 and publicity as per sub-rule (6) or (7) of rule 43 shall apply to empanelment proceedings.

(3) The procuring entity shall invite applications for empanelment for pre-qualification as per the procedure prescribed for inviting open competitive bidding.

(4) The invitation for empanelment shall also include the following information:-

(a) the name and address of the procuring entity;

(b) eligibility criteria required for empanelment;

(c) the terms and conditions of the empanelment including the duration of the empanelment; and

(d) the description of the subject matter of procurement, to the extent known.

(5) The procurement of subject matter shall be done by the procuring entity from amongst the empanelled bidders upto the limit of delegation of financial powers by sending to all of them, request for proposals with financial bid.

### **32. Direct procurement from notified agencies :-**

A procuring entity may procure subject matter of procurement from the category of bidders, without inviting bids, as notified by the State Government, from time to time.

### **33. Purchase or price preference in procurement :-**

A procuring entity shall provide price preference or purchase preference in procurement, to the category of bidders as notified by the State Government, from time to time.

## **CHAPTER 5 Bid Process Management- Open Competitive Bidding**

### **34. Description of subject matter of procurement :-**

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

(2) In description of the subject matter of the procurement, the procuring entity shall, if required, include specifications, plans,

drawings, designs, trials, sample testing and test methods, packaging, marking, labeling, conformity certification or symbols and terminology.

### **35. Criteria for evaluation of bids :-**

In addition to the criteria for evaluation set out in section 14, the evaluation criteria, where relevant, may include the discounted cash flow techniques.

### **36. Preparation of bidding documents :-**

(1) Before issuing a notice inviting bids the procuring entity shall ensure that the bidding documents are ready for sale.

(2) The bidding documents shall have the following sections, namely:-

- (a) Notice Inviting Bids (NIB);
- (b) Instruction to Bidders (ITB);
- (c) Bid Data Sheet (BDS);
- (d) Qualification and Evaluation criteria;
- (e) Bidding Forms; and
- (f) Conditions of Contract and Contract Forms:
  - (i) General Conditions of Contract;
  - (ii) Special Conditions of Contract; and
  - (iii) Contract Forms.
- (g) Any other documents, as may be necessary.

(3) The bidding documents shall include the following, namely:-

- (a) instructions for preparing bids;
- (b) the criteria and procedures that shall be applied in the ascertainment of the qualifications of bidders;
- (c) the requirements as to documentary evidence or other information that must be submitted by bidder in proof of its qualifications;
- (d) a detailed description of the subject matter of the procurement, including but not limited to, technical specifications, plans, drawings and designs if relevant, the quantity of the goods, any incidental services to be performed, the location where the goods are to be delivered, the work is to be executed or the services are to be provided and the required time, if any;
- (e) the detailed procedure for presentation, opening, examination and evaluation of bids, minimum requirement, if any, with respect to technical, quality and performance characteristics that bids must meet in order to be considered responsive, and the criteria to be

used by the procuring entity in evaluation of bids and determining the successful bid, including any provision for preference and any criteria other than price to be used and the relative weight of such criteria;

(f) the terms and conditions of the procurement contract or the rate contract, to the extent they are already known to the procuring entity, and the contract or agreement form, if any, to be signed by the parties;

(g) if alternatives to the characteristics of the goods, works or services, contractual terms and conditions or other requirements set forth in the bidding documents are permitted, a statement to that effect, and a description of the manner in which alternative bids are to be evaluated and compared;

(h) if bidders are permitted to submit bids for only a portion of the goods, works or services to be procured, a description of the portion or portions for which bids may be submitted;

(i) the manner in which the bid price is to be formulated and expressed, including a statement as to whether the price is to cover elements other than the cost of the goods, works or services themselves, such as any applicable transportation and insurance charges, customs duties and taxes etc.;

(j) any requirements of the procuring entity with respect to the issuer and the nature, form, amount and other terms and conditions of any bid security to be provided by bidder submitting bid, and any such requirements for any security for the performance of the procurement contract or the rate contract to be provided by the bidder that enters into the procurement contract, including securities such as labour and materials bonds;

(k) the manner, place and deadline for the submission of bids;

(l) the means by which, bidders may seek clarifications of the bidding documents and a statement as to whether the procuring entity intends to convene a meeting of bidders;

(m) the period of time during which bids shall remain valid;

(n) the place, time and date for the opening of bids;

(o) references to the Act, these rules and other laws and regulations directly pertinent to the procurement proceedings, provided, however, that the omission of any such reference shall not constitute grounds for appeal or liability on the part of the procuring entity;

(p) the name, designation, address and e-mail address, if any, of one or more officers or employees of the procuring entity, who are authorised to communicate directly with and to receive

communications directly from bidders in connection with the procurement proceedings, without the intervention of an intermediary;

(q) any commitments to be made by the bidder outside of the procurement contract, such as commitments relating to the transfer of technology;

(r) reference to the right provided to seek appeal of an unlawful act or decision of, or procedure followed by the procuring entity in relation to the procurement proceedings;

(s) if the procuring entity reserves the right to cancel bid proceedings and reject all bids, a statement to that effect;

(t) any formalities that shall be required once a bid has been accepted for a procurement contract or rate contract to enter into force, including, where applicable, the execution of a written procurement contract and approval by a higher authority or the State Government; and

(u) any other requirements laid down by the procuring entity like detail project report, concession agreement, design, plans, etc. in conformity with the Act and these rules relating to the preparation and submission of bids and to other aspects of the procurement proceedings.

(4) The procuring entity shall provide the bidding documents to each bidder that responds to the invitation to bids in accordance with the procedures and requirements specified therein. If prequalification, empanelment or registration proceedings have been engaged in, the procuring entity shall provide a set of bidding documents to each bidder that has been pre-qualified and that pays the price, if any, charged for that document.

### **37. Single part and two part bids :-**

A procuring entity may choose to invite bids in one part or two parts, as per the provisions of section 13.

### **38. Qualification of bidders :-**

In addition to the provisions regarding qualification of bidders as set out in section 7,-

(a) the procuring entity shall disqualify a bidder if it finds at any time that,-

(i) the information submitted, concerning the qualifications of the bidder, was false or constituted a misrepresentation; or

(ii) the information submitted, concerning the qualifications of the

bidder, was materially inaccurate or incomplete; and

(b) the procuring entity may require a bidder, who was pre-qualified, to demonstrate its qualifications again in accordance with the same criteria used to prequalify such bidder. The procuring entity shall disqualify any bidder that fails to demonstrate its qualifications again, if requested to do so. The procuring entity shall promptly notify each bidder requested to demonstrate its qualifications again as to whether or not the bidder has done so to the satisfaction of the procuring entity.

### **39. Eligibility of bidders :-**

(1) A bidder may be a natural person, private entity, government-owned entity or, where permitted in the bidding documents, any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Joint Venture. In the case of a Joint Venture: -

(c) all parties to the Joint Venture shall sign the bid and they shall be jointly and severally liable; and

(d) a Joint Venture shall nominate a representative who shall have the authority to conduct all business for and on behalf of any or all the parties of the Joint Venture during the bidding process. In the event the bid of Joint Venture is accepted, either they shall form a registered Joint Venture company/firm or otherwise all the parties to Joint Venture shall sign the Agreement.

(2) A bidder should not have a conflict of interest in the procurement in question as stated in rule 81 and the bidding documents. The procuring entity shall take appropriate actions against the bidder in accordance with section 11 and Chapter IV of the Act, if it determines that a conflict of interest has flawed the integrity of any procurement process. All bidders found to have a conflict of interest shall be disqualified.

(3) A bidder debarred under section 46 shall not be eligible to participate in any procurement process undertaken by,-

(a) any procuring entity, if debarred by the State Government; and

(b) a procuring entity if debarred by such procuring entity.

(4) In case of procurement of goods, bidder must be a manufacturer, distributor or bona-fide dealer in the goods and it shall furnish necessary proof for the same in the specified format. Where applicable, proof of authorisation by the manufacturer or country distributor in India, shall be enclosed.

### **40. Time frame for procurement process :-**



(1) The time frame for one stage bidding shall be as under:-

**Table**  
**Bid cycle of outer time frame for various procurement methods by one stage bidding**

<b>S. No.</b>	<b>Stages of procurement</b>	<b>Procurement Method</b>	
		<b>Open Competitive Bidding</b>	<b>Limited Bidding and Single Source Procurement</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
1.	Issue of bidding documents	On the day of first publication of Notice Inviting Bids.	-
2.	Submission of bids	(i) Thirty days from the date of first publication of Notice Inviting Bids; (ii) Where clarifications/addendum are issued, at least fifteen days from date of issue of clarifications/ addendum; or (iii) In case of International Competitive Bidding, the period of submission of bids shall be forty five days from the date of first publication of Notice Inviting Bids and at least twenty days from the date of issue of clarifications/addendum	Seven days from issue of Bidding documents/date of issue of clarifications/ addendum.
3.	Technical bid opening	Within one day of last day of submission of bids.	Within one day of last day of submission of bids.
4.	Issue of letter of award	Within three days of approval of award by the competent authority.	Within three days of approval of award by the competent authority.
5.	Execution of contract agreement	Within fifteen days of issue of letter of award or a period as specified in the bidding documents.	Within fifteen days of issue of letter of award or a period as specified in the bidding documents.
6.	Declaration of the bid results on State Public Procurement Portal and Procuring	Within three days of issue of letter of acceptance.	Within three days of issue of letter of acceptance.

	entity's website, if any		
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Provided that, in appropriate cases, the procuring entity may, with the approval of the State Government, relax the above mentioned time frame of bid process.

(2) A decision on acceptance or rejection of bids invited in a procurement process must be taken by the competent sanctioning authority within the period as given below, even if the period of validity may be more, from the date of opening of technical bids where two envelope system is followed, otherwise from the date of opening of financial bids. If the decision is not taken within the given time period by the concerned sanctioning authority, the bids shall be submitted to the next higher authority for decision with reasons of not taking decision within the given time period. In exceptional circumstances, the State Government may relax the limit of time period prescribed for Administrative Department/ Finance Committee/ Board/ Empowered Committee, etc.

**Table**  
**Time schedule for decision on the bids by the competent authority**

<b>S. No.</b>	<b>Authority competent to take decision</b>	<b>Time allowed for decision</b>
<b>1</b>	<b>2</b>	<b>3</b>
1	Head of Office or Executive Engineer	Twenty days
2	Regional Officer or Superintending Engineer	Thirty Days
3	Additional Chief Engineer	Forty days
4	Head of the Department or Chief Engineer	Fifty days
5	Administrative Department	Sixty days
6	Finance Committee/ Board/ Empowered Committee/ Empowered Board, etc.	Seventy days

Note: (1) The period specified above shall be inclusive of time taken in communication of acceptance of bid.

(2) If procuring entity is other than the departments of the State Government or its attached or subordinate offices, the concerned administrative department shall specify the equivalent authority competent to take decision on the bid.

#### **41. Prequalification proceedings :-**

In addition to the provisions of section 18 the procedure of prequalification process shall be carried out in the manner as specified below-

(a) Registration or empanelment of prospective bidders may be done as per the procedure specified for prequalification proceedings.

(b) The procuring entity shall take a decision to pre-qualify a bidder only in accordance with the criteria and procedures as set out in the invitation to pre-qualify and in the pre-qualification documents.

(c) The procuring entity shall promptly notify each bidder presenting an application to pre-qualify whether or not it has been pre-qualified and also publish the result of prequalification proceedings on the State Public Procurement Portal.

(d) The procuring entity shall promptly communicate, with reasons, to each bidder that it has not been pre-qualified.

#### **42. Bid security :-**

(1) Bid security shall not be taken in case of petty procurement valuing up to rupees ten thousand and procurement by the methods of limited bidding under clause (b) and (c) of sub-section (1) of section 30, request for quotations, spot purchase, single source procurement and competitive negotiations.

(2) In case of open competitive bidding, two-stage bidding, rate contract, electronic reverse auction, bid security shall be 2% or as specified by the State Government of the estimated value of subject matter of procurement put to bid. In case of Small Scale Industries of Rajasthan it shall be 0.5% of the quantity offered for supply and in case of sick industries, other than Small Scale Industries, whose cases are pending with Board of Industrial and Financial Reconstruction, it shall be 1% of the value of bid. Concessional bid security may be taken from registered bidders as specified by the State Government. Every bidder, if not exempted, participating in the procurement process shall be required to furnish the bid security as specified in the notice inviting bids.

(3) In lieu of bid security, a bid securing declaration shall be taken from Departments of the State Government and Undertakings, Corporations, Autonomous bodies, Registered Societies, Cooperative Societies which are owned or controlled or managed by the State Government and Government Undertakings of the Central Government.

(4) Bid security instrument or cash receipt of bid security or a bid securing declaration shall necessarily accompany the sealed bid.

(5) Bid security of a bidder lying with the procuring entity in respect of other bids awaiting decision shall not be adjusted towards bid security for the fresh bids. The bid security originally deposited may, however, be taken into consideration in case bids are re-invited.

(6) The bid security may be given in the form of cash, a bankers cheque or demand draft or bank guarantee, in specified format, of a scheduled bank or deposit through eGRAS. The bid security must

remain valid thirty days beyond the original or extended validity period of the bid.

(7) The bidding documents may stipulate that the issuer of the bid security and the confirmer, if any, of the bid security, as well as the form and terms of the bid security, must be acceptable to the procuring entity. In cases of International Competitive Bidding, the bidding documents may in addition stipulate that the bid security shall be issued by an issuer in India.

(8) Prior to presenting a submission, a bidder may request the procuring entity to confirm the acceptability of proposed issuer of a bid security or of a proposed confirmer, if required. The procuring entity shall respond promptly to such a request.

(9) The bank guarantee presented as bid security shall be got confirmed from the concerned issuing bank. However, the confirmation of the acceptability of a proposed issuer or of any proposed confirmer does not preclude the procuring entity from rejecting the bid security on the ground that the issuer or the confirmer, as the case may be, has become insolvent or has otherwise ceased to be creditworthy.

(10) The bid security of unsuccessful bidders shall be refunded soon after final acceptance of successful bid and signing of Agreement and submitting performance security.

(11) The Bid security taken from a bidder shall be forfeited in the following cases, namely:-

(a) when the bidder withdraws or modifies its bid after opening of bids;

(b) when the bidder does not execute the agreement, if any, after placement of supply / work order within the specified period;

(c) when the bidder fails to commence the supply of the goods or service or execute work as per supply / work order within the time specified;

(d) when the bidder does not deposit the performance security within specified period after the supply / work order is placed; and

(e) if the bidder breaches any provision of code of integrity prescribed for bidders specified in the Act and Chapter VI of these rules.

(12) In case of the successful bidder, the amount of bid security may be adjusted in arriving at the amount of the Performance Security, or refunded if the successful bidder furnishes the full amount of performance security.

(13) The procuring entity shall promptly return the bid security after the earliest of the following events, namely:-

- (a) the expiry of validity of bid security;
- (b) the execution of agreement for procurement and performance security is furnished by the successful bidder;
- (c) the cancellation of the procurement process; or
- (d) the withdrawal of bid prior to the deadline for presenting bids, unless the bidding documents stipulate that no such withdrawal is permitted.

### **43. Notice Inviting Bids :-**

(1) A procuring entity shall solicit bids in open competitive bidding and two stage bidding, or, where applicable, applications for pre-qualification by causing an invitation to bid or pre-qualify, as the case may be, to be published on the State Public Procurement Portal and on its own official website, if available. An abridged notice shall also be published in newspapers of adequate circulation, as prescribed in sub-rule (6) and (7) of this rule.

(2) An invitation to bid to be published on the State Public Procurement Portal shall contain, at least, the following information, namely:-

- (a) the name and address of the procuring entity including email address, if any;
- (b) a summary of the principal required terms and conditions of the procurement contract or rate contract to be entered into as a result of the procurement proceedings, including the nature, quantity, time and place of delivery of the goods to be supplied, the works to be executed, or the services to be provided;
- (c) whether the bid procedure shall be conducted in a single stage or two stages and whether it is to be presented simultaneously in two envelopes (one envelope containing the technical, quality and performance characteristics of the bid and the other envelope containing the financial aspects of the bid);
- (d) the criteria and procedures to be used for evaluating the qualifications of bidders;
- (e) the procedure of obtaining the solicitation documents and the place from which they may be obtained;
- (f) the price, if any, charged by the procuring entity and the mode of payment for the solicitation documents and the amount of bid security and its form;
- (g) the manner, place and deadline for the submission of bids;
- (h) right of the procuring entity to cancel the bid process and reject any or all of the bids;

- (i) the time, date and place of opening of bids;
  - (j) whether any of the items of procurement are reserved for a specific category of bidders; and
  - (k) any other important information.
- (3) An invitation to prequalify to be published on the State Public Procurement Portal shall contain, at least, the following information, namely:-
- (a) the name and address of the procuring entity including email address, if any;
  - (b) a summary of the required principal terms and conditions, to the extent known at the time of invitation to prequalify, of the procurement contract or rate contract to be entered into as a result of the procurement proceedings, including the nature, quantity and place of delivery of the goods to be supplied, the nature and location of the works to be effected, or the nature of the services and the location where they are to be provided, as well as, the required time for the supply of the goods or for the completion of the works, or the timetable for the provision of the services, if already known;
  - (c) the criteria and procedures to be followed for evaluating the qualifications of bidders;
  - (d) the procedure of obtaining the pre-qualification documents and the place from which they may be obtained;
  - (e) the price, if any, charged by the procuring entity and the mode of payment for the pre-qualification documents and subsequent to pre-qualification, for the bidding documents;
  - (f) the manner, place and deadline for presenting applications to pre-qualify; and
  - (g) the time, date and place of opening of proposals for prequalification.
- (4) The Notice Inviting Bids for goods, works or services estimated to cost above Rs.200.00 lakh shall also be sent to the Director General, Intelligence and Statistics, Kolkata for publication in Indian Trade Journal.
- (5) The Notice Inviting Bids to be published in the newspapers must be in brief. The bids for more than one subject matter of procurement shall be published in one Notice, as far as possible.
- (6) Time for submission of bids for supply of goods or providing services in response to publication of Notice Inviting Bids in newspapers and notice boards shall be as under:-

### **Table**

## Time for submission of bids and modes of publicity for procurement of Goods and Services

S. No.	Estimated Value of procurement	Period for submission of bid from the date of first publication of Notice Inviting Bid	Mode of publication
1	2	3	4
1.	Up to rupees five lakh	Ten days	(i) Notice Board of the procuring entity and all (ii) subordinate Regional and Divisional Head Quarters, as the case may be. One Regional daily newspaper
2.	Above rupees five lakh and upto Rs fifty lakh	Fifteen days	(i) Notice Board of the procuring entity and all (ii) subordinate Regional and (iii) Divisional Head Quarters, as the case may be. One Regional daily newspaper. One leading daily State Level newspaper having circulation of fifty thousand copies and above.
3.	Above rupees fifty lakh	Thirty days	(i) Notice Board of the procuring entity and of all (ii) subordinate Regional and Divisional Head Quarters, as the case may be. (iii) One State level leading daily newspaper having circulation of fifty thousand copies and above. One all India level English daily newspaper with wide circulation.

(7) Time for submission of bids for execution of works in response to publication of Notice Inviting Bids in newspapers and notice boards shall be as under:-

**Table**  
**Time for submission of bids and modes of publicity for procurement of works**

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<b>S. No.</b>	<b>Estimated Value of work to be procured</b>	<b>Period for submission of bid from the date of first publication of Notice Inviting Bid</b>	<b>Mode of Publication</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
1.	Up to rupees one lakh	Seven days	Notice Board of the procuring entity and its subordinate offices.
2.	Above rupees one lakh and upto rupees ten lakh	Fifteen days	(i) Notice Board of the procuring entity and its subordinate offices. (ii) One leading Regional daily Newspaper.
3.	Above rupees ten lakh and upto rupees one crore	Twenty one days	(i) Notice Board of the procuring entity and its subordinate offices. (ii) One leading Regional daily newspaper, one state level leading daily newspaper having circulation of 50,000 copies or more.
4.	Above rupees one crore	Thirty days	(i) Notice Board of the procuring entity and its subordinate offices. (ii) One leading Regional daily newspaper, one State level leading daily newspapers having circulation of 50,000 copies or more. (iii) One all India level daily English newspaper with wide circulation.

Provided that, in appropriate cases, the procuring entity may, with the approval of the State Government relax the above mentioned period of publication of notice inviting bid and submission of bid.

(8) In case of International Competitive Bidding in which the bid notice is to be addressed to international bidders, the Notice Inviting Bid shall additionally be published by using suitable mediums that attract international responses. This may include circulation of Notice Inviting Bids to the Indian embassies abroad, foreign embassies in India, international trade journals, etc. Period for submission of bid from the date of first publication of Notice Inviting Bid shall be forty five days.

(9) The Notice Inviting Bids shall be published, by the Government Departments in newspapers through Information and Public Relations Department, Rajasthan with a request in which category of newspapers such notice is to be published.

(10) In emergent conditions, the procuring entity after recording reasons may reduce, the period for submission of bids from the date of first publication of Notice Inviting Bids, to half of the period specified in sub-rule (6) or (7) above, as the case may be.

(11) The procuring entity shall have right to cancel the bid process and reject any or all of the bids.

#### **44. Price for bidding documents, pre-qualification**



## **documents or bidder registration documents and processing fee or user charges :-**

The price for the bidding documents, prequalification documents or registration documents shall be fixed after considering its preparation and delivering costs. The procuring entity may also charge processing fee or user charges for using e-procurement facility.

### **45. Sale of bidding documents :-**

(1) The sale of bidding documents shall be commenced from the date of publication of Notice Inviting Bids and shall be stopped one day prior to the date of opening of bids. The complete bidding documents shall also be placed on the State Public Procurement Portal. The prospective bidders shall be permitted to download the bidding document from the website and pay its price while submitting the filled-up bidding document to the procuring entity, or e-procurement gateway, if the facility is available.

(2) The bidding documents, pre-qualification documents or bidder registration documents shall be made available to any bidder who pays the price for it in cash or by bank demand draft, bankers cheque, unless the procurement is reserved for specific category of bidders:

Provided that in case pre-qualification proceedings were held for a bidding process including registration or empanelment proceedings, the bidding documents shall be made available to only those bidders who have been prequalified or registered or empanelled, as the case may be.

(3) A detailed account of bidding documents sold shall be kept. It shall also incorporate the details of the bidding documents downloaded from the website, when their price is paid at the time of submission of bid.

(4) Bidding documents purchased by Principal of any concern may be used by its authorised sole selling agents/ marketing agents/ distributors/ sub-distributors and authorised dealers or vice versa.

### **46. Pre-bid clarifications :-**

Subject to the provisions contained in section 22, the procuring entity may convene a pre-bid conference of the bidders and shall prepare minutes of the meeting containing the requests submitted at the meeting for clarification of the bidding documents and its

responses to those requests, without identifying the person, who made the requests. The minutes and response under sub-section (3) of section 22, if any, shall be provided promptly to all bidders to which the procuring entity provided the bidding documents, so as to enable those bidders to take the minutes into account in preparing their bids, and shall be published on the State Public Procurement Portal.

#### **47. Changes in the bidding documents :-**

At any time prior to the deadline for presenting bids, the procuring entity may for any reason, whether on its own initiative or as a result of a request for clarification by a bidder, modify the bidding documents by issuing an addendum in accordance with provisions of section 23.

#### **48. Period of validity of bids :-**

(1) Bids submitted by the bidders shall remain valid during the period specified in the bidding documents. This period should normally be not more than ninety days, but depending on the nature of the procurement it may be more. A bid valid for a shorter period shall be rejected by the procuring entity as non-responsive.

(2) Prior to the expiry of the period of validity of bids, the procuring entity, in exceptional circumstances, may request the bidders to extend the bid validity period for an additional specified period of time. A bidder may refuse the request and such refusal shall be treated as withdrawal of bid but in such circumstances bid security shall not be forfeited.

(3) Bidders that agree to an extension of the period of validity of their bids shall extend or get extended the period of validity of bid securities submitted by them or submit new bid securities to cover the extended period of validity of their bids. A bidder whose bid security is not extended, or that has not submitted a new bid security, is considered to have refused the request to extend the period of validity of its bid.

#### **49. Format and signing of bids :-**

(1) The bidder shall prepare one original set of the bidding documents called Bid and clearly mark it as "ORIGINAL" and if asked, the bidder shall submit additional copies of the bid in such number as specified in the bidding documents and clearly mark

them as "COPY". In the event of any discrepancy between the original bid and its copies, the contents of the original bid shall prevail.

(2) The original and all copies of the bid shall be typed or written in ink and its all the pages shall be signed by the bidder or a person duly authorised to sign on behalf of the bidder, in token of acceptance of all the terms and conditions of the bidding documents. This authorisation shall consist of a written confirmation as specified in the bidding documents and shall be attached to the bid.

(3) Any corrections in the bid such as interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid.

(4) Similar procedure for signing of bids shall be adopted for Technical and Financial bids, if two part bids have been invited.

#### **50. Sealing and marking of bids :-**

(1) Bidders may submit their bids by post or by hand but if so specified in the bidding documents, bidders shall submit their bids only electronically. Bidders submitting bids electronically shall follow the electronic bid submission procedure as specified on the State Public Procurement Portal.

(2) Bids submitted by post or by hand shall enclose the original and each copy of the bid in separate sealed envelopes, duly marked envelopes as "ORIGINAL", and "COPY". The envelopes containing the original and the copies shall then be enclosed in one single envelope.

(3) The inner and outer envelopes shall-

(a) bear the name and complete address along with telephone/mobile number of bidder;

(b) bear complete address of the procuring entity with telephone number, if any;

(c) bear the specific identification of the bidding process pursuant to Notice Inviting Bids and any additional identification marks as specified in the bidding documents; and

(d) bear a warning not to be opened before the time and date for bid opening, in accordance with the Notice Inviting Bids.

(4) If all envelopes are not sealed and marked as required, the procuring entity shall assume no responsibility about its consequences.

(5) Similar procedure for sealing and marking of bids shall be

adopted for Technical and Financial bids, if two part bids have been invited.

**51. Deadline for the submission of bids :-**

(1) Bids shall be received, by the person designated for the purpose by the procuring entity or directly dropped in the bid box, at the place and up to the time and date specified in the Notice Inviting Bids.

(2) Normally, the date of submission and opening of bids should not be extended. In exceptional circumstances or when the bidding documents are required to be substantially modified as a result of discussions in pre bid conference or otherwise and the time with the prospective bidders for preparation of bids appears insufficient, the date may be extended by the procuring entity. In such case the publicity of extended time and date shall be given in the manner, as was given at the time of issuing the original Notice Inviting Bids and shall also be placed on the State Public Procurement Portal. It should be ensured that after issue of corrigendum, reasonable time is available to the bidders for preparation and submission of their bids. The procuring entity shall also publish such modifications in the bidding documents in the same manner as the publication of initial bidding documents. If in the office of the bids receiving and opening authority, the last date of submission or opening of bids is a non working day, the bids shall be received or opened on the next working day.

**52. Late bids :-**

The person authorised to receive the bids shall not receive any bid that is submitted personally, after the time and date fixed for submission of bids. Any bid which arrives by post after the deadline for submission of bids shall be declared and marked as "Late" and returned unopened to the bidder by registered post.

**53. Receipt and Custody of Bids :-**

(1) The bids shall be received by hand delivery, by courier or by post in the specified format up to the specified time and date and at the specified place, by the person authorised by the procuring entity except when bids are received through e-procurement or they are directly dropped in the bid box.

(2) The person authorised to receive the bids shall provide a receipt

signed by him with date and time of receipt of bid to the person, who delivers the bid.

(3) All bids received unsealed, in torn or damaged condition through post or by personal delivery shall be so marked and signed on the cover by the person receiving the same and get signed on it by the person delivering it and put in a fresh cover and reseal, if so warranted. All such entries shall be attested by the receiving person.

(4) Preferably, all bids received shall be put into a duly locked bid box placed for receiving the bids. In the absence of a bid box, the received bids shall be kept in safe custody in lock and key by the person authorised to receive the bids.

(5) The location of bid box shall be such as to facilitate easy access to bidders. The bid box shall have two sealed locks. The key of one of the locks shall remain with the procuring entity and the key of the other lock shall be with the person authorised to receive the bids.

(6) Bids received by the authorised person on or before the time and date fixed for receipt of bids shall be entered in bids receipt register and the same shall be closed at the scheduled time and date giving in words and figures the number of bids received up to the last time and date for submission of bids.

(7) The record of bids received late through post shall be entered in bids receipt register after closing the register as per sub-rule (6).

(8) Bids received by telegram or given on form other than the prescribed form shall not be considered.

(9) In case of e-tendering, that is to say bid proposals submitted through electronic methods, the same shall be submitted in accordance with the procedure outlined on the State Public Procurement Portal.

#### **54. Withdrawal, substitution and modification of bids :-**

(1) A bidder may withdraw, substitute, or modify its bid after it has been submitted by sending a written notice, duly signed by him or his authorised representative (authorisation letter be enclosed). Corresponding substitution or modification of the bid must accompany the written notice. The notice must be-

(a) submitted in accordance with the bidding documents, and in addition, the envelope shall be clearly marked as "Withdrawal," "Substitution," or "Modification"; and

(b) received by the person authorised to receive the bids or directly

dropped in the bid box prior to the last time and date fixed for receiving of bids.

(2) Bids requested to be withdrawn shall be returned unopened to the bidders.

(3) No bid shall be withdrawn, substituted, or modified after the last time and date fixed for receipt of bids.

## **55. Opening of bids :-**

(1) The sealed bid box shall be opened by the bid opening committee constituted by the procuring entity at the time, date and place specified in the bidding documents in the presence of the bidders or their authorised representatives, who choose to be present.

(2) The bids receiving person shall also hand over all the bids received by him up to the time and date for submission of bids to the Convener of bids opening committee and obtain its signature in the bids receipt register.

(3) The bid opening committee may co-opt experienced persons in the committee to conduct the process of bid opening.

(4) If electronic bidding is adopted, specific electronic bid opening procedure as specified on the State Public Procurement Portal shall be followed. The bidders may witness the electronic bid opening procedure online.

(5) The bids shall be opened by the bids opening committee in the presence of the bidders or their authorised representatives who choose to be present. All envelopes containing bids shall be signed with date by the members of the committee in token of verification of the fact that they are sealed. The envelopes shall be numbered as a/n, where a denotes the serial number at which the bid envelop has been taken for opening and n denotes the total number of bids received by specified time.

(6) The bid opening committee shall prepare a list of the bidders or their representatives attending the opening of bids and obtain their signatures on the same. The list shall also contain the representatives name and telephone number and corresponding bidders names and addresses. The authority letters brought by the representatives shall be attached to the list. The list shall be signed by all the members of bid opening committee with date and time of opening of the bids.

(7) First, envelopes marked as "WITHDRAWAL" shall be opened, read out, and recorded and the envelope containing the

corresponding bid shall not be opened, but returned to the bidders. No bid shall be permitted to be withdrawn unless the corresponding withdrawal notice contains a valid authorisation to request the withdrawal and readout and recorded in bid opening. If the withdrawal notice is not accompanied by the valid authorisation, the withdrawal shall not be permitted and the corresponding bid shall be opened. Next, envelopes marked as "SUBSTITUTION" shall be opened, read out, recorded and exchanged for the corresponding bid being substituted and the substituted bid shall not be opened, but returned to the bidder. No bid shall be substituted unless the corresponding substitution notice contains a valid authorisation to request the substitution and is read out and recorded at bid opening. Envelopes marked as "MODIFICATION" shall be opened thereafter, read out and recorded with the corresponding bid. No bid shall be modified unless the corresponding modification notice contains a valid authorisation to request the modification and is read out and recorded at bid opening. Only envelopes that are opened, read out, and recorded at bid opening shall be considered further.

(8) All other envelopes shall be opened one at a time and the following details shall be read out and recorded-

- (a) the name of the bidder and whether there is a substitution or modification;
- (b) the bid prices (per lot if applicable);
- (c) the bid security, if required; and
- (d) any other details as the committee may consider appropriate.

After all the bids have been opened, they shall be initialed and dated on the first page of the each bid by the members of the bids opening committee. All the pages of the price schedule and letters, Bill of Quantities attached shall be initialed and dated by the members of the committee. Key information such as prices, delivery period, etc. shall be encircled and unfilled spaces in the bids shall be marked and signed with date by the members of the committee. The original and additional copies of the bid shall be marked accordingly. Alterations/corrections/additions/overwritings shall be initialed legibly to make it clear that such alteration, etc., were existing in the bid at the time of opening.

(9) No bid shall be rejected at the time of bid opening except the late bids, alternative bids (if not permitted) and bids not accompanied with the proof of payment or instrument of the required price of bidding documents, processing fee or user charges and bid security.

(10) The bid opening committee shall prepare a record of the bid opening that shall include the name of the bidder and whether there is a withdrawal, substitution, or modification, the bid price, per lot (if applicable), any discounts and alternative offers (if they were permitted), any conditions put by bidder and the proof of the payment of price of bidding documents, processing fee or user charges and bid security. The bidders or their representatives, who are present, shall sign the record. The omission of a bidders signature on the record shall not invalidate the contents and effect of the record. The members of the committee shall also sign the record with date.

(11) In case of two part bids, only outer envelopes and envelopes marked as "Technical Bid" shall be opened in the sequence of the serial numbers marked on them. The envelopes marked as "Financial Bid" shall be kept intact and safe and shall be opened of only those bidders who qualify in the evolution of their Technical Bids in the manner as mentioned in sub-rule (3) to (10) above, on the date and time to be intimated to those bidders.

(12) In case of two stage bidding the proposals received in response to invitation of Expression of Interest or Request for Qualification in the first stage shall be opened as per the procedure specified in sub-rules (3) to (10) for the opening of Single Part bid. The procedure for opening of second stage bids shall be similar to that for opening of Two Part bids, specified in sub-rule (11). In case Technical and Financial bids are invited in single envelop in second stage, the procedure for opening of the bids shall be as specified in sub-rule (3) to (10).

## **56. Preliminary examination of bids :-**

The bid evaluation committee constituted by the procuring entity shall conduct a preliminary scrutiny of the opened bids to assess the prima-facie responsiveness and ensure that the-

- (a) bid is signed, as per the requirements listed in the bidding documents;
- (b) bid has been sealed as per instructions provided in the bidding documents;
- (c) bid is valid for the period, specified in the bidding documents;
- (d) bid is accompanied by bid security or bid securing declaration;
- (e) bid is unconditional and the bidder has agreed to give the required performance security; and
- (f) other conditions, as specified in the bidding documents are



fulfilled.

## **57. Tabulation of Technical bids :-**

(1) If Technical bids have been invited, they shall be tabulated by the bids evaluation committee in the form of a comparative statement to evaluate the qualification of the bidders against the criteria for qualification set out in the bidding documents. The table may include following:-

(a) Name and address of the bidder including e-mail address, if any;

(b) Reference of registration/ empanelment, if any, with the procuring entity or other procuring entity;

(c) Is there any substitution or modification of the original bid;

(d) Whether the bidder fulfills the eligibility criteria given in the bidding documents;

(e) Whether the bid has been signed by the bidder or an authorised person (whether valid document of authority is enclosed);

(f) Whether proof of payment of price of bid documents given;

(g) Whether proof of payment of processing fee or user charges, if any, bid security or the instrument of bid security or bid securing declaration given;

(h) Response to the required qualification criteria and allotment of marks for them, or whether meets the minimum standards fixed for each criterion in the bidding documents for,-

(i) availability of financial resources;

(ii) past performance and experience;

(iii) technical and professional competence including requirement of technical/ professional/ specialist personnel and availability of required machinery and equipment;

(iv) managerial resources and competence;

(v) whether proof/ declaration has been given as required under clauses (b) to (e) of sub-section (2) of section 7;

(vi) any other qualification criteria fixed in accordance with the provisions of section 7.

(i) Result of evaluation of Technical bids, whether qualified or not, if not, reasons thereof.

(2) The members of bids evaluation committee shall give their recommendations below the table as to which of the bidders have been found to be qualified in evaluation of Technical bids and sign it.

(3) The format of the table given in sub-rule (1) may also be used,

mutatis mutandis, for evaluation of proposals received in response to Registration/ Empanelment of bidders, Request for Qualifications/ Expression of Interest in first stage of Two-stage bidding process. This format may also be used, mutatis mutandis, for evaluation of Technical Bid in the second stage of the Two Stage bidding, if Technical bids have been invited separately.

#### **58. Tabulation of Financial bids :-**

(1) After evaluation of Technical bids the Financial bids shall be tabulated by the bids evaluation committee in the form of a comparative statement to evaluate the lowest or most advantageous bid on the basis of evaluation criteria set out in the bidding documents. The table may include following:-

- (a) Name and address of the bidders including e-mail address, if any;
- (b) If evaluation of Technical bids has taken place, whether the bidder has qualified in evaluation of Technical bids;
- (c) Specifications of the subject matter of procurement offered;
- (d) Rates quoted per unit, per item and total price of each item quoted or percentage above, below on the rates given in the bidding documents, as the case may be;
- (e) Excise duty, Rajasthan VAT, Central sales tax, Entry tax and any other taxes as applicable, to be shown separately;
- (f) Packing and forwarding charges, freight, insurance etc.;
- (g) Total cost per unit, per item and all items including all cost and taxes;
- (h) Discount, rebate if any (if permitted);
- (i) Alternative offers (if permitted);
- (j) Delivery/completion period quoted;
- (k) Validity period of bids quoted;
- (l) Mode of payment quoted;
- (m) Samples, trials offered (if asked for) and results of sample testing and trials conducted;
- (n) Guarantee/warranty/defect liability period quoted, if asked for;
- (o) Contract maintenance period quoted, if asked for;
- (p) Response to any other information asked for in the bidding documents;
- (q) Any conditions quoted different from those included in the bidding documents;
- (r) Is there any material deviation, reservation or omission from the required specifications and terms and conditions set out in the

bidding documents;

(s) Result of evaluation of financial bids- standing of the bidder in financial evaluation;

(t) Combined evaluation of Technical and Financial bids, if stipulated in the bidding documents- standing of the bidder in combined evaluation of Technical and Financial bids;

(2) If only Single Part bids have been invited, then the information specified in clause (b), (c), (d), (e), (f), (g) and subclause (v) of clause (h) of sub-rule (1) of rule 57 shall also be included in the table.

(3) The table given in sub-rule (1) may also be used for evaluation of Financial bids, in second stage of Two Stage bidding.

(4) The members of bids evaluation committee shall give their recommendations below the table regarding lowest bid or most advantageous bid and sign it.

## **59. Determination of responsiveness :-**

(1) The bid evaluation committee shall determine the responsiveness of a bid on the basis of bidding documents and the provisions of sub-section (2) of section 7.

(2) A responsive bid is one that meets the requirements of the bidding documents without material deviation, reservation, or omission where: -

(a) "deviation" is a departure from the requirements specified in the bidding documents;

(b) "reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the bidding documents; and

(c) "Omission" is the failure to submit part or all of the information or documentation required in the bidding documents.

(3) A material deviation, reservation, or omission is one that,

(a) if accepted, shall:-

(i) affect in any substantial way the scope, quality, or performance of the subject matter of procurement specified in the bidding documents; or

(ii) limits in any substantial way, inconsistent with the bidding documents, the procuring entity's rights or the bidder's obligations under the proposed contract; or

(b) if rectified, shall unfairly affect the competitive position of other bidders presenting responsive bids.

(4) The bid evaluation committee shall examine the technical

aspects of the bid in particular, to confirm that all requirements of bidding document have been met without any material deviation, reservation or omission.

(5) The procuring entity shall regard a bid as responsive if it conforms to all requirements set out in the bidding documents, or it contains minor deviations that do not materially alter or depart from the characteristics, terms, conditions and other requirements set out in the bidding documents, or if it contains errors or oversights that can be corrected without touching on the substance of the bid.

#### **60. Clarification of bids :-**

(1) To assist in the examination, evaluation, comparison and qualification of the bids, the bid evaluation committee may, at its discretion, ask any bidder for a clarification regarding its bid. The committees request for clarification and the response of the bidder shall be in writing.

(2) Any clarification submitted by a bidder with regard to its bid that is not in response to a request by the committee shall not be considered.

(3) No change in the prices or substance of the bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the committee in the evaluation of the financial bids.

(4) No substantive change to qualification information or to a submission, including changes aimed at making an unqualified bidder, qualified or an unresponsive submission, responsive shall be sought, offered or permitted.

(5) All communications generated under this rule shall be included in the record of the procurement proceedings.

#### **61. Non-material Non-conformities in bids :-**

(1) The bid evaluation committee may waive any nonconformities in the bid that do not constitute a material deviation, reservation or omission, the bid shall be deemed to be substantially responsive.

(2) The bid evaluation committee may request the bidder to submit the necessary information or document like audited statement of accounts, VAT clearance certificate, PAN, etc. within a reasonable period of time. Failure of the bidder to comply with the request may result in the rejection of its bid.

(3) The bid evaluation committee may rectify non-material

nonconformities or omissions on the basis of the information or documentation received from the bidder under sub-rule (2).

## **62. Exclusion of bids :-**

A procuring entity shall exclude a bid in accordance with the provisions of section 25.

## **63. Evaluation of Technical bids in case of two part bids :-**

(1) The criteria fixed for evaluation of technical bids shall be in accordance with the provisions of section 7 and clearly mentioned in the bidding documents so as to keep transparency in selection process. The criteria once fixed for evaluation of technical bids shall not be changed or relaxed.

(2) Techno-commercial qualifications of the bidders shall be evaluated in tabular form as per rule 57 on the basis of the weightings of marks assigned or minimum achievements fixed in the bidding documents for various criteria of qualifications in the area of professional, technical, financial, managerial competence, etc. i.e. like number of years of experience of the bidder in the subject matter of procurement, satisfactorily completion of similar contracts in past certain years, each valuing not less than specified percentage of the value of subject matter of procurement, financial turnover of the bidder in past certain years in relation to the value of subject matter of procurement, the value of orders in hand of the bidder at the time of submitting the bid relative to the value of subject matter of procurement, etc.

(3) Bidders securing specified minimum percent of marks or have fulfilled minimum achievement norms may be considered to have technically qualified.

(4) The number of firms qualified in technical evaluation should not generally be less than three. If the number is less than three and it is considered necessary by the procuring entity to continue with the procurement process, reasons shall be recorded in writing and included in the record of the procurement proceedings.

(5) The bidders who qualified in the technical evaluation shall be informed in writing about the date, time and place of opening of their financial bids. This date should generally be not later than fifteen days from the date of issue of letter.

## **64. Correction of arithmetic errors in financial bids :-**

The bid evaluation committee shall correct arithmetical errors in substantially responsive bids, on the following basis, namely: -

- (a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the bid evaluation committee there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to clause (a) and (b) above.

#### **65. Evaluation of financial bids :-**

Subject to the provisions of section 27, the procuring entity shall take following actions for evaluation of financial bids:-

- (a) in case of single part bid system where bid is received in single cover along with requisite bid security, processing fee or user charges and price of bidding documents within specified time, it shall be considered for financial evaluation by the bids evaluation committee;
- (b) in case of two part bid system the financial bids of the bidders who qualified in technical evaluation shall be opened at the notified time, date and place by the bid evaluation committee in the presence of the bidders or their representatives who choose to be present;
- (c) the process of opening, marking and signing on the financial bids shall be as prescribed in rule 55;
- (d) the names of the bidders, the rates given by them and conditions put, if any, shall be read out and recorded;
- (e) conditional bids are liable to be rejected;
- (f) the evaluation shall include all costs and all taxes and duties applicable to the bidder as per law of the Central / State Government / Local Authorities, and the evaluation criteria specified in the bidding documents shall only be applied;
- (g) the offers shall be evaluated and marked L1, L2, L3 etc. L1 being the lowest offer and then others in ascending order in case

price is the only criteria, or evaluated and marked H1, H2, H3 etc. in descending order in case quality is also a criteria and the combined score of technical and financial evaluation is considered;

(h) the bid evaluation committee shall prepare a comparative statement in tabular form in accordance with rule 58 with its report on evaluation of financial bids and recommend the lowest offer for acceptance to the procuring entity, if price is the only criterion, or most advantageous bid in other case;

(i) it shall be ensured that the offer recommended for sanction is justifiable looking to the prevailing market rates of the goods, works or service required to be procured; and

(j) in case a rate contract is being entered, more than one firm at the same lowest rate may be considered to ensure uninterrupted delivery but for this purpose, counter offer of lowest rate will be given for acceptance to the bidders quoting higher rates in the order of ascending value.

**66. Comparison of rates of firms outside and those in Rajasthan :-**

While tabulating the bids of those firms which are not entitled to price preference, the element of Rajasthan Value Added Tax shall be excluded from the rates quoted by the firms of Rajasthan and the element of Central Sales Tax shall be included in the rates of firms from outside Rajasthan for evaluation purpose.

**67. Price / purchase preference in evaluation :-**

Price and / or purchase preference notified by the State Government and as mentioned in the bidding documents shall be considered in the evaluation of bids and award of contract.

**68. Lack of competition :-**

(1) A situation may arise where, if after evaluation of bids the bid evaluation committee may end-up with one responsive bid only, in such situation, the bid evaluation committee should check as to whether while floating the Notice Inviting Bids all necessary requirements to encourage competition like standard bid conditions, industry friendly specifications, wide publicity, sufficient time for formulation of bids, etc. were fulfilled. If not, the Notice Inviting Bids should be refloated after rectifying deficiencies. The bid process shall be considered valid even if there is one responsive

bid, provided that-

- (a) the bid is technically qualified;
  - (b) the price quoted by the bidder is assessed to be reasonable;
  - (c) the bid is unconditional and complete in all respects;
  - (d) there are no obvious indicators of cartelisation amongst bidders; and
  - (e) the bidder is qualified as per the provisions of section 7
- (2) The bid evaluation committee shall prepare a justification note for approval by the next higher authority of the procuring entity, in which the concurrence of the accounts member shall be necessary.
- (3) In case of dissent by any member of bid evaluation committee the next higher authority in delegation of financial powers shall decide as to whether to sanction the single bid or reinvite bids after recording reasons.
- (4) If a decision to re invite the bids is taken, market assessment shall be carried out for estimation of market depth, eligibility criteria and cost estimate.

## **69. Negotiations :-**

- (1) Except in case of procurement by method of single source procurement or procurement by competitive negotiations, to the extent possible, no negotiations shall be conducted after the pre-bid stage. All clarifications needed to be sought shall be sought in the pre-bid stage itself.
- (2) Negotiations may, however, be undertaken only with the lowest or most advantageous bidder under the following circumstances-
- (a) when ring prices have been quoted by the bidders for the subject matter of procurement; or
  - (b) when the rates quoted vary considerably and considered much higher than the prevailing market rates.
- (3) The bid evaluation committee shall have full powers to undertake negotiations. Detailed reasons and results of negotiations shall be recorded in the proceedings.
- (4) The lowest or most advantageous bidder shall be informed in writing either through messenger or by registered letter and email (if available). A minimum time of seven days shall be given for calling negotiations. In case of urgency the bid evaluation committee, after recording reasons, may reduce the time, provided the lowest or most advantageous bidder has received the intimation and consented to regarding holding of negotiations.
- (5) Negotiations shall not make the original offer made by the



bidder inoperative. The bid evaluation committee shall have option to consider the original offer in case the bidder decides to increase rates originally quoted or imposes any new terms or conditions.

(6) In case of non-satisfactory achievement of rates from lowest or most advantageous bidder, the bid evaluation committee may choose to make a written counter offer to the lowest or most advantageous bidder and if this is not accepted by him, the committee may decide to reject and re-invite bids or to make the same counter-offer first to the second lowest or most advantageous bidder, then to the third lowest or most advantageous bidder and so on in the order of their initial standing and work / supply order be awarded to the bidder who accepts the counter-offer. This procedure should be used in exceptional cases only.

(7) In case the rates even after the negotiations are considered very high, fresh bids shall be invited.

## **70. Acceptance of the successful bid and award of contract** :-

(1) The procuring entity after considering the recommendations of the bid evaluation committee and the conditions of bid, if any, financial implications, trials, sample testing and test reports, etc., shall accept or reject the successful bid. If any member of the bid evaluation committee, has disagreed or given its note of dissent, the matter shall be referred to the next higher authority, as per delegation of financial powers, for decision.

(2) Decision on bids shall be taken within original validity period of bids and time period allowed to procuring entity for taking decision. If the decision is not taken within the original validity period or time limit allowed for taking decision, the matter shall be referred to the next higher authority in delegation of financial powers for decision.

(3) Before award of the contract, the procuring entity shall ensure that the price of successful bid is reasonable and consistent with the required quality.

(4) A bid shall be treated as successful only after the competent authority has approved the procurement in terms of that bid.

(5) The procuring entity shall award the contract to the bidder whose offer has been determined to be the lowest or most advantageous in accordance with the evaluation criteria set out in the bidding documents and if the bidder has been determined to be qualified to perform the contract satisfactorily on the basis of

qualification criteria fixed for the bidders in the bidding documents for the subject matter of procurement.

(6) Prior to the expiration of the period of bid validity, the procuring entity shall inform the successful bidder, in writing, that its bid has been accepted.

(7) As soon as a bid is accepted by the competent authority, its written intimation shall be sent to the concerned bidder by registered post or email and asked to execute an agreement in the format given in the bidding documents on a non judicial stamp of requisite value and deposit the amount of performance security or a performance security declaration, if applicable, within a period specified in the bidding documents or where the period is not specified in the bidding documents then within fifteen days from the date on which the letter of acceptance or letter of intent is despatched to the bidder.

(8) If the issuance of formal letter of acceptance is likely to take time, in the meanwhile a Letter of Intent (LOI) may be sent to the bidder. The acceptance of an offer is complete as soon as the letter of acceptance or letter of intent is posted and/ or sent by email (if available) to the address of the bidder given in the bidding document. Until a formal contract is executed, the letter of acceptance or Letter of Intent shall constitute a binding contract.

(9) The bid security of the bidders whose bids could not be accepted shall be refunded soon after the contract with the successful bidder is signed and its performance security is obtained.

### **71. Information and publication of award :-**

Information of award of contract shall be communicated to all participating bidders and published on the State Public Procurement Portal in accordance with provisions of sub-section (3) of section 27.

### **72. Procuring entity's right to accept or reject any or all bids :-**

The Procuring entity reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to award of contract, without thereby incurring any liability to the bidders. Reasons for doing so shall be recorded in writing.

### **73. Right to vary quantity :-**

(1) At the time of award of contract, the quantity of goods, works or services originally specified in the bidding documents may be increased, but such increase shall not exceed twenty percent of the quantity specified in the bidding documents. It shall be without any change in the unit prices or other terms and conditions of the bid and the bidding documents.

(2) If the procuring entity does not procure any subject matter of procurement or procures less than the quantity specified in the bidding documents due to change in circumstances, the bidder shall not be entitled for any claim or compensation except otherwise provided in the bidding documents.

(3) Repeat orders for extra items or additional quantities may be placed, if it is provided in the bidding documents, on the rates and conditions given in the contract if the original order was given after inviting open competitive bids. Delivery or completion period may also be proportionately increased. The limits of repeat order shall be as under-

(a) 50% of the quantity of the individual items and 20% of the value of original contract in case of works; and

(b) 25% of the value of goods or services of the original contract.

#### **74. Dividing quantities among more than one bidder at the time of award :-**

As a general rule all the quantities of the subject matter of procurement shall be procured from the bidder, whose bid is accepted. However, when it is considered that the quantity of the subject matter of procurement to be procured is very large and it may not be in the capacity of the bidder, whose bid is accepted, to deliver the entire quantity or when it is considered that the subject matter of procurement to be procured is of critical and vital nature, in such cases, the quantity may be divided between the bidder, whose bid is accepted and the second lowest bidder or even more bidders in that order, in a fair, transparent and equitable manner at the rates of the bidder, whose bid is accepted if such condition is specified in the bidding documents. Counter offer to first lowest bidder (L1), in order to arrive at an acceptable price, shall amount to negotiation. However, any counter offer thereafter to second lowest bidder (L2), third lowest bidder (L3) etc., (at the rates accepted by L1) in case of splitting of quantities, as pre- disclosed in the bidding documents, shall not be deemed to be a negotiation.

#### **75. Performance security :-**

(1) Performance security shall be solicited from all successful bidders except the departments of the State Government and undertakings, corporations, autonomous bodies, registered societies, co-operative societies which are owned or controlled or managed by the State Government and undertakings of the Central Government. However, a performance security declaration shall be taken from them. The State Government may relax the provision of performance security in particular procurement or any class of procurement.

(2) The amount of performance security shall be five percent, or as may be specified in the bidding documents, of the amount of supply order in case of procurement of goods and services and ten percent of the amount of work order in case of procurement of works. In case of Small Scale Industries of Rajasthan it shall be one percent of the amount of quantity ordered for supply of goods and in case of sick industries, other than Small Scale Industries, whose cases are pending before the Board of Industrial and Financial Reconstruction (BIFR), it shall be two percent of the amount of supply order.

(3) Performance security shall be furnished in any one of the following forms-

(a) deposit through eGRAS;

(b) Bank Draft or Bankers Cheque of a scheduled bank;

(c) National Savings Certificates and any other script/instrument under National Savings Schemes for promotion of small savings issued by a Post Office in Rajasthan, if the same can be pledged under the relevant rules. They shall be accepted at their surrender value at the time of bid and formally transferred in the name of procuring entity with the approval of Head Post Master;

(d) Bank guarantee/s of a scheduled bank. It shall be got verified from the issuing bank. Other conditions regarding bank guarantee shall be same as mentioned in the rule 42 for bid security;

(e) Fixed Deposit Receipt (FDR) of a scheduled bank. It shall be in the name of procuring entity on account of bidder and discharged by the bidder in advance. The procuring entity shall ensure before accepting the Fixed Deposit Receipt that the bidder furnishes an undertaking from the bank to make payment/premature payment of the Fixed Deposit Receipt on demand to the procuring entity without requirement of consent of the bidder concerned. In the event of forfeiture of the performance security, the Fixed Deposit shall be forfeited along with interest earned on such Fixed Deposit.

(4) Performance security furnished in the form specified in clause (b) to (e) of sub-rule (3) shall remain valid for a period of sixty days beyond the date of completion of all contractual obligations of the bidder, including warranty obligations and maintenance and defect liability period.

#### **76. Execution of agreement :-**

(1) A procurement contract shall come into force from the date on which the letter of acceptance or letter of intent is despatched to the bidder.

(2) The successful bidder shall sign the procurement contract within a period specified in the bidding document or where the period is not specified in the bidding document then within fifteen days from the date on which the letter of acceptance or letter of intent is despatched to the successful bidder.

(3) If the bidder, whose bid has been accepted, fails to sign a written procurement contract or fails to furnish the required performance security within specified period, the procuring entity shall take action against the successful bidder as per the provisions of the Act and these rules. The procuring entity may, in such case, cancel the procurement process or if it deems fit, offer for acceptance the rates of lowest or most advantageous bidder to the next lowest or most advantageous bidder, in accordance with the criteria and procedures set out in the bidding documents.

(4) The bidder shall be asked to execute the agreement on a nonjudicial stamp of specified value at its cost.

#### **77. Confidentiality :-**

In addition to the restrictions specified in section 49, the procuring entity, while procuring a subject matter of such nature which requires the procuring entity to maintain confidentiality, may impose condition for protecting confidentiality of such information.

#### **78. Cancellation of procurement process :-**

If any procurement process has been cancelled, it shall not be reopened but it shall not prevent the procuring entity from initiating a new procurement process for the same subject matter of procurement, if required.

#### **79. Documentary record of procurement proceedings :-**

(1) Subject to the provisions of section 10, the procuring entity shall, in addition to record specified in clause (a) to (h) of subsection (1) of the said section, maintain the following record, namely:-

- (a) the names and addresses of all bidders with bid prices and conditions of bid if bid is conditional;
- (b) the name and address of the successful bidder with price on which procurement is made;
- (c) in case of rate contract method, the names and addresses of the bidders with whom the rate contract is concluded;
- (d) a summary of modification, if any, made in the bidding documents;
- (e) details of qualification required, bidders having qualifications and details of qualified or disqualified bidders with reasons;
- (f) where a written procurement contract has been executed, including rate contract, copy of contract;
- (g) in the case of empanelment, the terms and conditions of the empanelment and a copy of the agreement, if any;
- (h) a summary of the evaluation and comparison of bids, including the application of any margin of preference and reasons for rejection or nonconsideration of a bid, if any; and
- (i) if the procurement process is cancelled, reasons of cancellation.

## **CHAPTER 6** Code of Integrity

### **80. Code of integrity :-**

- (1) All the officers or employees of the procuring entity shall,-
- (a) maintain an unimpeachable standard of integrity both inside and outside their office;
  - (b) act in accordance with the provisions of the Act, these rules, guidelines issued under the Act and instructions;
  - (c) not allow any bidders to have access to information on a particular procurement, before such information is available to the public at large;
  - (d) not intentionally use unnecessarily restrictive or "tailored" specifications, terms of reference or statements of work that can discourage competition;
  - (e) not solicit or accept any bribe, reward or gift or any material benefit of any directly or indirectly promise of future employment from anyone, who has sought or is seeking procurement from the procuring entity;
  - (f) not have a financial interest in any bidder(s) responding to a

- procuring entity's bidding process and any person having financial interest in any bid shall not participate in that procurement process;
- (g) not disclose proprietary and source selection information, directly or indirectly, to any person other than a person authorised to receive such information;
  - (h) treat all bids in a fair and equitable manner in line with the principle of fairness, integrity and transparency in the procurement process;
  - (i) provide all bidders identical information at the same time, during the bidding process;
  - (j) apply the same criteria of evaluation as specified in the bidding documents, bid registration documents or pre-qualification documents and under no circumstances new evaluation criteria shall be introduced during the evaluation process;
  - (k) not entertain any favour, recreation, presents, services, etc. from the bidders or prospective bidders;
  - (l) protect the interests of the procuring entity under all circumstances while dealing with information and information sources;
  - (m) maintain confidentiality of all bids;
  - (n) ensure that the selection of bid is as per the bidding documents and is not influenced by personal reasons attributable to concerned officials in any manner; and
  - (o) disclose conflict of interest, if any.
- (2) Any person participating in procurement process shall,-
- (a) not offer any bribe, reward or gift or any material benefit either directly or indirectly in exchange for an unfair advantage in procurement process or to otherwise influence the procurement process;
  - (b) not misrepresent or omit information that misleads or attempts to mislead so as to obtain a financial or other benefit or avoid an obligation;
  - (c) not indulge in any collusion, bid rigging or anticompetitive behaviour to impair the transparency, fairness and progress of the procurement process;
  - (d) not misuse any information shared between the procuring entity and the bidders with an intent to gain unfair advantage in the procurement process;
  - (e) not indulge in any coercion including impairing or harming or threatening to do the same, directly or indirectly, to any party or to its property to influence the procurement process;

- (f) not obstruct any investigation or audit of a procurement process;
- (g) disclose conflict of interest, if any; and
- (h) disclose any previous transgressions with any entity in India or any other country during the last three years or any debarment by any other procuring entity.

### **81. Conflict of interest :-**

(1) A conflict of interest for procuring entity or its personnel and bidders is considered to be a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.

(2) The situations in which a procuring entity or its personnel may be considered to be in conflict of interest includes, but not limited to, following:-

(a) A conflict of interest occurs when procuring entity's personnel's private interests, such as outside professional or other relationships or personal financial assets, interfere or appear to interfere with the proper performance of its professional functions or obligations as a procurement official.

(b) Within the procurement environment, a conflict of interest may arise in connection with such private interests as personal investments and assets, political or other outside activities and affiliations while in the service of the procuring entity, employment after retirement from the procuring entity's service or the receipt of a gift that may place the procuring entity's personnel in a position of obligation.

(c) A conflict of interest also includes the use of procuring entity's assets, including human, financial and material assets, or the use of procuring entity's office or knowledge gained from official functions for private gain or to prejudice the position of someone procuring entity's personnel does not favour.

(d) A conflict of interest may also arise in situations where procuring entity's personnel is seen to benefit, directly or indirectly, or allow a third party, including family, friends or someone they favour, to benefit from procuring entity's personnel's actions or decisions.

(3) A Bidder may be considered to be in conflict of interest with one or more parties in a bidding process if, including but not limited to:-



- (a) they have controlling partners in common;
- (b) they receive or have received any direct or indirect subsidy from any of them;
- (c) they have the same legal representative for purposes of the bid;
- (d) they have a 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;
- (e) A bidder participates in more than one bid in the same bidding process. However, this does not limit the inclusion of the same sub-contractor, not otherwise participating as a bidder, in more than one bid; or
- (f) A bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the subject matter of procurement of the bidding process. All bidders shall provide in Qualification Criteria and Bidding Forms, a statement that the bidder is neither associated nor has been associated directly or indirectly, with the consultant or any other entity that has prepared the design, specifications and other documents for the subject matter of procurement or being proposed as Project Manager for the contract.

## **82. Breach of code of integrity by the bidder :-**

Without prejudice to the provisions of Chapter IV of the Act, in case of breach of any provision of the code of integrity by a bidder or prospective bidder, as the case may be, the procuring entity may take appropriate action in accordance with the provisions of subsection (3) of section 11 and section 46.

## **CHAPTER 7 Appeals**

### **83. Form of Appeal :-**

- (1) An appeal under sub-section (1) or (4) of section 38 shall be in Form along with as many copies as there are respondents in the appeal.
- (2) Every appeal shall be accompanied by an order appealed against, if any, affidavit verifying the facts stated in the appeal and proof of payment of fee.
- (3) Every appeal may be presented to First Appellate Authority or Second Appellate Authority, as the case may be, in person or through registered post or authorised representative.

#### **84. Fee for filing appeal :-**

(1) Fee for first appeal shall be rupees two thousand five hundred and for second appeal shall be rupees ten thousand, which shall be non-refundable.

(2) The fee shall be paid in the form of bank demand draft or bankers cheque of a Scheduled Bank payable in the name of Appellate Authority concerned.

#### **85. Procedure for disposal of appeal :-**

(1) The First Appellate Authority or Second Appellate Authority, as the case may be, upon filing of appeal, shall issue notice accompanied by copy of appeal, affidavit and documents, if any, to the respondents and fix date of hearing.

(2) On the date fixed for hearing, the First Appellate Authority or Second Appellate Authority, as the case may be, shall,-

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

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

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

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

#### **86. Repeal and savings :-**

All rules, regulations, orders, notifications, departmental codes, manuals, by-laws, official memoranda or circulars relating to procurement of goods, services or works provided for in these rules, which are in force on the date of commencement of these rules, in relation to the matter covered by these rules are hereby repealed to the extent they are covered by these rules:

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

