

who has entered into such procurement contract;

- (p) "proprietary goods" means any subsidiary equipment and spare parts manufactured by a manufacturer of any goods, machines or equipment for the operation or repair and maintenance of such goods, machines or equipment;
- (q) "contract price" means the contract price set forth in a procurement contract, and this term also includes the price fixed upon the measurement of a work done as per a variation order, if any, issued under such contract and the cost price fixed by adjustment of price, if any, made;
- (r) "framework or unit rate contract" means the contract as referred to in Clause (b) of Schedule-3;
- (s) "work by force account" means any construction works to be carried out directly by a public entity itself;
- (t) "review committee" means the committee formed pursuant to Sub-section (1) of Section 48 of the Act;

## **Chapter-2**

### **Preparation for Procurement Proceedings, Procurement Plan and Cost Estimate**

- 3. Preparation for procurement proceedings:** Any public entity shall, in preparing for any procurement proceedings, do as follows:
- (a) To identify the need for procurement,
  - (b) To obtain information as to the procurement contract prevailing at the market in order to identify various technical solutions relating to procurement and ascertain the availability of supplier,
  - (c) Where goods, construction works or consultancy services or other services of similar nature were procured in the preceding years, to study the procedures of such procurement,

- (d) To define the description, quantity and scope of procurement,
- (e) To break up procurement into more convenient lots or include it in a package,
- (f) To cause the preparation of procurement plan,
- (g) To prepare the cost estimate of procurement,
- (h) To identify the source and amount of financing for procurement,
- (i) To choose the method of procurement, and
- (j) To determine whether tender qualification or pre-qualification proceedings are needed to be carried out in the case of any procurement other than the procurement of construction works valued at up to Six Million Rupees.

**4. Prohibition on procurement without order of competent authority:**

No one shall make, or cause to be made, any procurement without the written order of the competent authority.

**5. To obtain requisition for procurement:** (1) Prior to the initiation of the procurement proceedings of goods, the procurement unit of the concerned public entity shall obtain procurement requisition from its divisions and sections and get such requisition to be approved by the competent authority.

(2) The procurement requisition referred to in Sub-rule (1) shall contain the following matters:

- (a) Description relating to type, quality and quantity of goods,
- (b) Timing of procurement of goods,
- (c) Estimated cost of procurement, and
- (d) Source of financing.

**6. Provision of budget and construction site:** (1) No public entity shall initiate procurement proceedings unless necessary funds for

forwarding documents relating to proposals for consultancy service,

- (f) Receiving and safely keeping pre-qualification proposals, bids or consultancy service proposals,
- (g) Submitting the pre-qualification proposals, bids or consultancy service proposals to the evaluation committee for evaluation and submit the evaluated bids for acceptance,
- (h) Notifying the acceptance of the pre-qualification proposals, bids or consultancy service proposals,
- (i) Obtaining, examining and safely keeping the performance guarantee,
- (j) Examining, or causing to be examined, the quality standards of the goods, construction works or services that have been procured,
- (k) Making available the information and documents asked for by the Public Procurement Monitoring Office, and
- (l) Performing other functions as may be prescribed.

(4) In carrying out or causing to be carried out the functions as referred to in Sub-section (3), the Procurement Unit or the unit to which responsibility thereof has been assigned shall carry out the same with the approval of the chief of the concerned Public Entity.

**8. Procurement Method to be Selected:** (1) A Public Entity while procuring shall have to procure by applying any of the following methods based on such conditions and purchase price as prescribed:-

- (a) For procurement of goods, construction works or other services:
  - (1) By inviting open bids at international level,

- (2) By inviting open bids at national level,
- (3) By inviting sealed quotations,
- (4) By procuring directly,
- (5) Through participation of users' committee or beneficiary group,
- (6) Through force account.

(b) Procurement of consultancy service:

- (1) By requesting competitive proposals,
- (2) Through direct negotiations.

(2) In making procurement pursuant to this Act and the rules framed under this Act, procurement shall not be so made in piecemeal as to limit competition.

**9. Procurement to be Made by Inviting Open Bid:** Except as otherwise provided in this Act, a Public Entity making any procurement shall, to the extent possible, make by inviting open bids, and provide equal opportunity to qualified bidders to participate in such procurement process without any discrimination.

**10. Qualification of Bidder or Proponent:** (1) A bidder shall have to fulfill the following qualification in order to obtain a procurement contract:-

- (a) In the case of a bidder, the qualification criteria set forth in the bidding documents or where prequalification proceedings have been conducted for procurement, the qualification criteria set forth in the prequalification documents, and
- (b) In the case of a consultant the qualification criteria set forth in the documents relating to proposals.

(2) In setting forth qualification criteria pursuant to Sub-section (1) in the

- (b) Travel costs, accommodation costs of human resources, office expenses, required goods, equipment and service costs, translation costs of reports and other documents and printing costs,
- (c) Where the consultant has to organize any training, symposium or travel, costs required for the same and other costs.

**13. Cost estimate of other services:** (1) A public entity shall prepare the cost estimate of other services subject to Rule 9.

(2) For the preparation of the cost estimate of rent of motor vehicles, machineries, equipment or goods to be hired, the chief of the concerned public entity shall form a committee consisting of a maximum of three competent technicians having knowledge as to such vehicles, machines, equipment or goods. If such entity has no such technical human resources, the pertinent higher office of such entity shall form such committee.

(3) The committee referred to in Sub-rule (2) shall, in preparing the cost estimate of rent, prepare the tentative cost estimate, taking into account the following matters:

- (a) Description, specification, condition and age of vehicles, machines, equipment or goods to be hired,
- (b) Prevailing market rate,
- (c) Period of rent,
- (d) Price and consumption of fuel, and
- (e) Such other matters as the committee considers to be appropriate,

(4) In preparing the cost estimate of transportation, the concerned public entity shall prepare a tentative cost estimate based on the rate fixed by the rate fixation committee in the case of a district level public

entity and based on the departmental rate and, absent even such departmental rate, based on the prevailing market rate in the case of a central level public entity.

(5) In preparing the cost estimate of repair and maintenance of any goods, the public entity shall get the cost estimate prepared by the expert or employee who is competent in that field if such expert or employee is available in such entity, and absent such employee, by a person, firm, company or organization carrying out such act.

(6) In preparing the cost estimate of house rent and service contract, tentative cost estimate shall be prepared based on the prevailing market rate and the norms, if any, issued by the Public Procurement Monitoring Office in that respect.

**14. Approval of cost estimate:** (1) The cost estimate prepared pursuant to Rules 10, 11 and 13 has to be approved by the following authority:

- (a) Gazetted third class chief of office, in the case of the cost estimate valued from twenty five thousand rupees to five million rupees,
- (b) Gazetted second class chief of office, in the case of the cost estimate valued up to ten million rupees,
- (c) Gazetted first class chief of office, in the case of the cost estimate valued up to thirty million rupees,
- (d) Departmental head, in the case of the cost estimate valued at any amount exceeding thirty million rupees.

(2) The cost estimate prepared pursuant to Rule 12 has to be approved by the following authority:

- (a) Gazetted third class chief of office, in the case of the cost estimate valued up to one hundred thousand rupees,